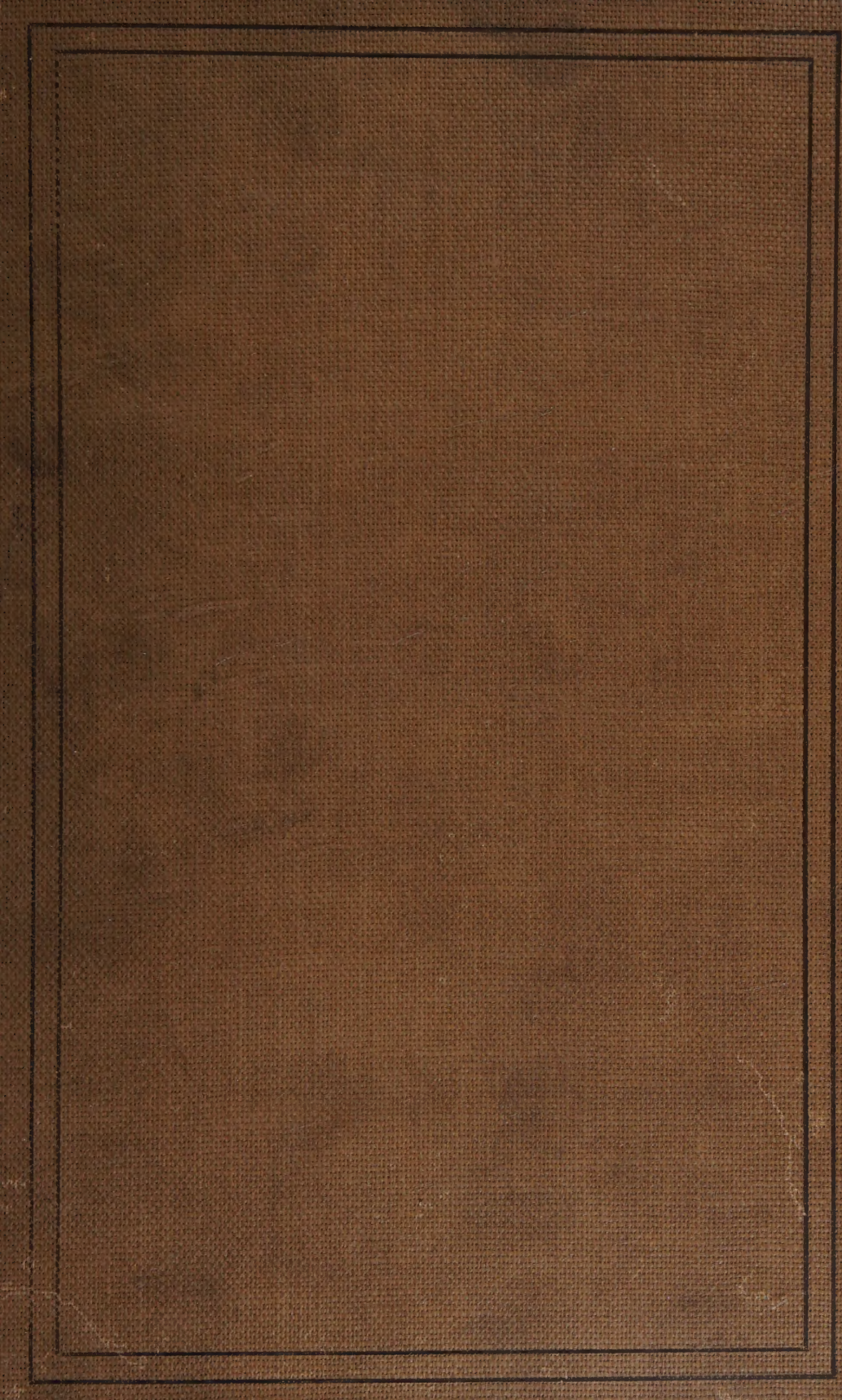




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PAPERS RELATING TO

THE

FOREIGN RELATIONS

OF THE

UNITED STATES.

Diplomatic papers

WITH

THE ANNUAL MESSAGE OF THE
PRESIDENT TRANSMITTED TO
CONGRESS DECEMBER 6, 1910



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MESSAGE.

To the Senate and House of Representatives:

During the past year the foreign relations of the United States have continued upon a basis of friendship and good understanding.

ARBITRATION.

The year has been notable as witnessing the pacific settlement of two important international controversies before the Permanent Court of The Hague.

The arbitration of the Fisheries dispute between the United States and Great Britain, which has been the source of nearly continuous diplomatic correspondence since the Fisheries Convention of 1818, has given an award which is satisfactory to both parties. This arbitration is particularly noteworthy not only because of the eminently just results secured, but also because it is the first arbitration held under the general arbitration treaty of April 4, 1908, between the United States and Great Britain, and disposes of a controversy the settlement of which has resisted every other resource of diplomacy, and which for nearly ninety years has been the cause of friction between two countries whose common interest lies in maintaining the most friendly and cordial relations with each other.

The United States was ably represented before the tribunal. The complicated history of the questions arising made the issue depend, more than ordinarily in such cases, upon the care and skill with which our case was presented, and I should be wanting in proper recognition of a great patriotic service if I did not refer to the lucid historical analysis of the facts and the signal ability and force of the argument—six days in length—presented to the Court in support of our case by Mr. Elihu Root. As Secretary of State, Mr. Root had given close study to the intricate facts bearing on the controversy, and by diplomatic correspondence had helped to frame the issues. At the solicitation of the Secretary of State and myself, Mr. Root, though burdened by his duties as Senator from New York, undertook the preparation of the case as leading counsel, with the condition imposed by himself that, in view of his position as Senator, he should not receive any compensation.

The Tribunal constituted at The Hague by the Governments of the United States and Venezuela has completed its deliberations and has rendered an award in the case of the Orinoco Steamship Company against Venezuela. The award may be regarded as satisfactory since it has, pursuant to the contentions of the United States, recognized a number of important principles making for a judicial attitude in the determining of international disputes.

In view of grave doubts which had been raised as to the constitutionality of The Hague Convention for the establishment of an International Prize Court, now before the Senate for ratification, because of that provision of the Convention which provides that there may be an appeal to the proposed Court from the decisions of national courts, this government proposed in an Identic Circular Note addressed to those Powers who had taken part in the London Maritime Conference, that the powers signatory to the Convention, if confronted with such difficulty, might insert a reservation to the effect that appeals to the International Prize Court in respect to decisions of its national tribunals, should take the form of a direct claim for compensation; that the proceedings thereupon to be taken should be in the form of a trial *de novo*, and that judgment of the Court should consist of compensation for the illegal capture, irrespective of the decision of the national court whose judgment had thus been internationally involved. As the result of an informal discussion it was decided to provide such procedure by means of a separate protocol which should be ratified at the same time as the Prize Court Convention itself.

Accordingly, the Government of the Netherlands, at the request of this Government, proposed under date of May 24, 1910, to the powers signatory to the Hague Convention, the negotiation of a supplemental protocol embodying stipulations providing for this alternative procedure. It is gratifying to observe that this additional protocol is being signed without objection, by the powers signatory to the original convention, and there is every reason to believe that the International Prize Court will be soon established.

The Identic Circular Note also proposed that the International Prize Court when established should be endowed with the functions of an Arbitral Court of Justice under and pursuant to the recommendation adopted by the last Hague Conference. The replies received from the various powers to this proposal inspire the hope that this also may be accomplished within the reasonably near future.

It is believed that the establishment of these two tribunals will go a long way toward securing the arbitration of many questions which have heretofore threatened and, at times, destroyed the peace of nations.

PEACE COMMISSION.

Appreciating these enlightened tendencies of modern times, the Congress at its last session passed a law providing for the appointment of a commission of five members "to be appointed by the President of the United States to consider the expediency of utilizing existing international agencies for the purpose of limiting the armaments of the nations of the world by international agreement, and of constituting the combined navies of the world an international force for the preservation of universal peace, and to consider and report upon any other means to diminish the expenditures of government for military purposes and to lessen the probabilities of war."

I have not as yet made appointments to this Commission because I have invited and am awaiting the expressions of foreign governments as to their willingness to cooperate with us in the appointment of similar commissions or representatives who would meet with our commissioners and by joint action seek to make their work effective.

GREAT BRITAIN AND CANADA.

Several important treaties have been negotiated with Great Britain in the past twelve months. A preliminary diplomatic agreement has been reached regarding the arbitration of pecuniary claims which each Government has against the other. This agreement, with the schedules of claims annexed, will, as soon as the schedules are arranged, be submitted to the Senate for approval.

An agreement between the United States and Great Britain with regard to the location of the international boundary line between the United States and Canada in Passamaquoddy Bay and to the middle of Grand Manan Channel was reached in a Treaty concluded May 21, 1910, which has been ratified by both Governments and proclaimed, thus making unnecessary the arbitration provided for in the previous treaty of April 11, 1908.

The Convention concluded January 11, 1909, between the United States and Great Britain providing for the settlement of international differences between the United States and Canada including the apportionment between the two countries of certain of the boundary waters and the appointment of Commissioners to adjust certain other questions has been ratified by both Governments and proclaimed.

The work of the International Fisheries Commission appointed in 1908, under the treaty of April 11, 1908, between Great Britain and the United States, has resulted in the formulation and recommendation of uniform regulations governing the fisheries of the boundary waters of Canada and the United States for the purpose of protecting and increasing the supply of food fish in such waters.

In completion of this work, the regulations agreed upon require congressional legislation to make them effective and for their enforcement in fulfillment of the treaty stipulations.

PORTUGAL.

In October last the monarchy in Portugal was overthrown, a provisional Republic was proclaimed, and there was set up a de facto Government which was promptly recognized by the Government of the United States for purposes of ordinary intercourse pending formal recognition by this and other Powers of the Governmental entity to be duly established by the national sovereignty.

LIBERIA.

A disturbance among the native tribes of Liberia in a portion of the Republic during the early part of this year resulted in the sending, under the Treaty of 1862, of an American vessel of war to the disaffected district, and the Liberian authorities, assisted by the good offices of the American Naval Officers, were able to restore order. The negotiations which have been undertaken for the amelioration of the conditions found in Liberia by the American Commission, whose report I transmitted to Congress on March 25 last, are being brought to conclusion, and it is thought that within a short time practical measures of relief may be put into effect through the good offices of this Government and the cordial cooperation of other governments interested in Liberia's welfare.

THE NEAR EAST.

TURKEY.

To return the visit of the Special Embassy announcing the accession of His Majesty Mehemet V, Emperor of the Ottomans, I sent to Constantinople a Special Ambassador who, in addition to this mission of ceremony, was charged with the duty of expressing to the Ottoman Government the value attached by the Government of the United States to increased and more important relations between the countries and the desire of the United States to contribute to the larger economic and commercial development due to the new régime in Turkey.

The rapid development now beginning in that ancient empire and the marked progress and increased commercial importance of Bulgaria, Roumania, and Servia make it particularly opportune that the possibilities of American commerce in the Near East should receive due attention.

MONTENEGRO.

The National Skoupchtina having expressed its will that the Principality of Montenegro be raised to the rank of Kingdom, the Prince of Montenegro on August 15 last assumed the title of King of Montenegro. It gave me pleasure to accord to the new kingdom the recognition of the United States.

THE FAR EAST.

The center of interest in Far Eastern affairs during the past year has again been China.

It is gratifying to note that the negotiations for a loan to the Chinese Government for the construction of the trunk railway lines from Hankow southward to Canton and westward through the Yangtse Valley, known as the Hukuang Loan, were concluded by the representatives of the various financial groups in May last and the results approved by their respective governments. The agreement, already initialed by the Chinese Government, is now awaiting formal ratification. The basis of the settlement of the terms of this loan was one of exact equality between America, Great Britain, France, and Germany in respect to financing the loan and supplying materials for the proposed railways and their future branches.

The application of the principle underlying the policy of the United States in regard to the Hukuang Loan, viz., that of the internationalization of the foreign interest in such of the railways of China as may be financed by foreign countries, was suggested on a broader scale by the Secretary of State in a proposal for internationalization and commercial neutralization of all the railways of Manchuria. While the principle which led to the proposal of this Government was generally admitted by the powers to whom it was addressed, the Governments of Russia and Japan apprehended practical difficulties in the execution of the larger plan which prevented their ready adherence. The question of constructing the Chinchow-Aigun railway by means of an international loan to China is, however, still the subject of friendly discussion by the interested parties.

The policy of this Government in these matters has been directed by a desire to make the use of American capital in the development of China an instrument in the promotion of China's welfare and material prosperity without prejudice to her legitimate rights as an independent political power.

This policy has recently found further exemplification in the assistance given by this Government to the negotiations between China and a group of American bankers for a loan of \$50,000,000 to be employed chiefly in currency reform. The confusion which has from

ancient times existed in the monetary usages of the Chinese has been one of the principal obstacles to commercial intercourse with that people. The United States in its Treaty of 1903 with China obtained a pledge from the latter to introduce a uniform national coinage, and the following year, at the request of China, this Government sent to Peking a member of the International Exchange Commission, to discuss with the Chinese Government the best methods of introducing the reform. In 1908 China sent a Commissioner to the United States to consult with American financiers as to the possibility of securing a large loan with which to inaugurate the new currency system, but the death of Their Majesties, the Empress Dowager and the Emperor of China, interrupted the negotiations, which were not resumed until a few months ago, when this Government was asked to communicate to the bankers concerned the request of China for a loan of \$50,000,000 for the purpose under review. A preliminary agreement between the American group and China has been made covering the loan.

For the success of this loan and the contemplated reforms which are of the greatest importance to the commercial interests of the United States and the civilized world at large, it is realized that an expert will be necessary, and this Government has received assurances from China that such an adviser, who shall be an American, will be engaged.

It is a matter of interest to Americans to note the success which is attending the efforts of China to establish gradually a system of representative government. The provincial assemblies were opened in October, 1909, and in October of the present year a consultative body, the nucleus of the future national parliament, held its first session at Peking.

The year has further been marked by two important international agreements relating to Far Eastern affairs. In the Russo-Japanese Agreement relating to Manchuria, signed July 4, 1910, this Government was gratified to note an assurance of continued peaceful conditions in that region and the reaffirmation of the policies with respect to China to which the United States together with all other interested powers are alike solemnly committed.

The treaty annexing Korea to the Empire of Japan, promulgated August 29, 1910, marks the final step in a process of control of the ancient empire by her powerful neighbor that has been in progress for several years past. In communicating the fact of annexation the Japanese Government gave to the Government of the United States assurances of the full protection of the rights of American citizens in Korea under the changed conditions.

Friendly visits of many distinguished persons from the Far East have been made during the year. Chief among these were Their Imperial Highnesses Princes Tsai-tao and Tsai-Hsun of China;

and His Imperial Highness Prince Higashi Fushimi, and Prince Tokugawa, President of the House of Peers of Japan. The Secretary of War has recently visited Japan and China in connection with his tour to the Philippines, and a large delegation of American business men are at present traveling in China. This exchange of friendly visits has had the happy effect of even further strengthening our friendly international relations.

LATIN AMERICA.

During the past year several of our southern sister Republics celebrated the one hundredth anniversary of their independence. In honor of these events, special embassies were sent from this country to Argentina, Chile, and Mexico, where the gracious reception and splendid hospitality extended them manifested the cordial relations and friendship existing between those countries and the United States, relations which I am happy to believe have never before been upon so high a plane and so solid a basis as at present.

The Congressional commission appointed under a concurrent resolution to attend the festivities celebrating the centennial anniversary of Mexican independence, together with a special ambassador, were received with the highest honors and with the greatest cordiality, and returned with the report of the bounteous hospitality and warm reception of President Diaz and the Mexican people, which left no doubt of the desire of the immediately neighboring Republic to continue the mutually beneficial and intimate relations which I feel sure the two governments will ever cherish.

At the Fourth Pan-American Conference which met in Buenos Aires during July and August last, after seven weeks of harmonious deliberation, three conventions were signed providing for the regulation of trade-marks, patents, and copyrights, which when ratified by the different Governments, will go far toward furnishing to American authors, patentees, and owners of trade-marks the protection needed in localities where heretofore it has been either lacking or inadequate. Further, a convention for the arbitration of pecuniary claims was signed and a number of important resolutions passed. The Conventions will in due course be transmitted to the Senate, and the report of the Delegation of the United States will be communicated to the Congress for its information. The special cordiality between representative men from all parts of America which was shown at this Conference can not fail to react upon and draw still closer the relations between the countries which took part in it.

The International Bureau of American Republics is doing a broad and useful work for Pan American commerce and comity. Its duties were much enlarged by the International Conference of

American States at Buenos Aires and its name was shortened to the more practical and expressive term of Pan American Union. Located now in its new building, which was specially dedicated April 26 of this year to the development of friendship, trade and peace among the American nations, it has improved instrumentalities to serve the twenty-two republics of this hemisphere.

I am glad to say that the action of the United States in its desire to remove imminent danger of war between Peru and Ecuador growing out of a boundary dispute, with the cooperation of Brazil and the Argentine Republic as joint mediators with this Government, has already resulted successfully in preventing war. The Government of Chile, while not one of the mediators, lent effective aid in furtherance of a preliminary agreement likely to lead on to an amicable settlement, and it is not doubted that the good offices of the mediating Powers and the conciliatory cooperation of the Governments directly interested will finally lead to a removal of this perennial cause of friction between Ecuador and Peru. The inestimable value of cordial cooperation between the sister republics of America for the maintenance of peace in this hemisphere has never been more clearly shown than in this mediation, by which three American Governments have given to this hemisphere the honor of first invoking the most far-reaching provisions of The Hague Convention for the pacific settlement of international disputes.

There has been signed by the representatives of the United States and Mexico a protocol submitting to the United States-Mexican Boundary Commission (whose membership for the purpose of this case is to be increased by the addition of a citizen of Canada) the question of sovereignty over the Chamizal Tract which lies within the present physical boundaries of the city of El Paso, Tex. The determination of this question will remove a source of no little annoyance to the two Governments.

The Republic of Honduras has for many years been burdened with a heavy bonded debt held in Europe, the interest on which long ago fell in arrears. Finally conditions were such that it became imperative to refund the debt and place the finances of the Republic upon a sound basis. Last year a group of American bankers undertook to do this and to advance funds for railway and other improvements contributing directly to the country's prosperity and commerce—an arrangement which has long been desired by this Government. Negotiations to this end have been under way for more than a year and it is now confidently believed that a short time will suffice to conclude an arrangement which will be satisfactory to the foreign creditors, eminently advantageous to Honduras, and highly creditable to the judgment and foresight of the Honduran Government. This is much to be desired since, as recognized by the Washington

Conventions, a strong Honduras would tend immensely to the progress and prosperity of Central America.

During the past year the Republic of Nicaragua has been the scene of internecine struggle. General Zelaya, for seventeen years the absolute ruler of Nicaragua, was throughout his career the disturber of Central America and opposed every plan for the promotion of peace and friendly relations between the five republics. When the people of Nicaragua were finally driven into rebellion by his lawless exactions, he violated the laws of war by the unwarranted execution of two American citizens who had regularly enlisted in the ranks of the revolutionists. This and other offenses made it the duty of the American Government to take measures with a view to ultimate reparation and for the safeguarding of its interests. This involved the breaking off of all diplomatic relations with the Zelaya Government for the reasons laid down in a communication from the Secretary of State, which also notified the contending factions in Nicaragua that this Government would hold each to strict accountability for outrages on the rights of American citizens. American forces were sent to both coasts of Nicaragua to be in readiness should occasion arise to protect Americans and their interests, and remained there until the war was over and peace had returned to that unfortunate country. These events, together with Zelaya's continued exactions, brought him so clearly to the bar of public opinion that he was forced to resign and to take refuge aboard.

In the above-mentioned communication of the Secretary of State to the Chargé d'Affaires of the Zelaya Government, the opinion was expressed that the revolution represented the wishes of the majority of the Nicaraguan people. This has now been proved beyond doubt by the fact that since the complete overthrow of the Madriz Government and the occupation of the capital by the forces of the revolution, all factions have united to maintain public order and as a result of discussion with an Agent of this Government, sent to Managua at the request of the Provisional Government, comprehensive plans are being made for the future welfare of Nicaragua, including the rehabilitation of public credit. The moderation and conciliatory spirit shown by the various factions give ground for the confident hope that Nicaragua will soon take its rightful place among the law-abiding and progressive countries of the world.

It gratifies me exceedingly to announce that the Argentine Republic some months ago placed with American manufacturers a contract for the construction of two battle-ships and certain additional naval equipment. The extent of this work and its importance to the Argentine Republic make the placing of the bid an earnest of friendly feeling toward the United States.

TARIFF NEGOTIATIONS.

The new tariff law, in section 2 respecting the maximum and minimum tariffs of the United States, which provisions came into effect on April 1, 1910, imposed upon the President the responsibility of determining prior to that date whether or not any undue discrimination existed against the United States and its products in any country of the world with which we sustained commercial relations.

In the case of several countries instances of apparent undue discrimination against American commerce were found to exist. These discriminations were removed by negotiation. Prior to April 1, 1910, when the maximum tariff was to come into operation with respect to importations from all those countries in whose favor no proclamation applying the minimum tariff should be issued by the President, one hundred and thirty-four such proclamations were issued. This series of proclamations embraced the entire commercial world, and hence the minimum tariff of the United States has been given universal application, thus testifying to the satisfactory character of our trade relations with foreign countries.

Marked advantages to the commerce of the United States were obtained through these tariff settlements. Foreign nations are fully cognizant of the fact that under section 2 of the tariff act the President is required, whenever he is satisfied that the treatment accorded by them to the products of the United States is not such as to entitle them to the benefits of the minimum tariff of the United States, to withdraw those benefits by proclamation giving ninety days' notice, after which the maximum tariff will apply to their dutiable products entering the United States. In its general operation this section of the tariff law has thus far proved a guaranty of continued commercial peace, although there are unfortunately instances where foreign governments deal arbitrarily with American interests within their jurisdiction in a manner injurious and inequitable.

The policy of broader and closer trade relations with the Dominion of Canada which was initiated in the adjustment of the maximum and minimum provisions of the Tariff Act of August, 1909, has proved mutually beneficial. It justifies further efforts for the readjustment of the commercial relations of the two countries so that their commerce may follow the channels natural to contiguous countries and be commensurate with the steady expansion of trade and industry on both sides of the boundary line. The reciprocation on the part of the Dominion Government of the sentiment which was expressed by this Government was followed in October by the suggestion that it would be glad to have the negotiations, which had been temporarily suspended during the summer, resumed. In accordance with this suggestion the Secretary of State, by my

direction, dispatched two representatives of the Department of State as special commissioners to Ottawa to confer with representatives of the Dominion Government. They were authorized to take such steps for formulating a reciprocal trade agreement as might be necessary and to receive and consider any propositions which the Dominion Government might care to submit.

Pursuant to the instructions issued conferences were held by these commissioners with officials of the Dominion Government at Ottawa in the early part of November.

The negotiations were conducted on both sides in a spirit of mutual accommodation. The discussion of the common commercial interests of the two countries had for its object a satisfactory basis for a trade arrangement which offers the prospect of a freer interchange for the products of the United States and of Canada. The conferences were adjourned to be resumed in Washington in January, when it is hoped that the aspiration of both Governments for a mutually advantageous measure of reciprocity will be realized.

FOSTERING FOREIGN TRADE.

All these tariff negotiations, so vital to our commerce and industry, and the duty of jealously guarding the equitable and just treatment of our products, capital, and industry abroad devolve upon the Department of State.

The Argentine battle-ship contracts, like the subsequent important one for Argentine railway equipment, and those for Cuban Government vessels, were secured for our manufacturers largely through the good offices of the Department of State.

The efforts of that Department to secure for citizens of the United States equal opportunities in the markets of the world and to expand American commerce have been most successful. The volume of business obtained in new fields of competition and upon new lines is already very great and Congress is urged to continue to support the Department of State in its endeavors for further trade expansion.

Our foreign trade merits the best support of the Government and the most earnest endeavor of our manufacturers and merchants, who, if they do not already in all cases need a foreign market, are certain soon to become dependent on it. Therefore, now is the time to secure a strong position in this field.

AMERICAN BRANCH BANKS ABROAD.

I can not leave this subject without emphasizing the necessity of such legislation as will make possible and convenient the establishment of American banks and branches of American banks in

foreign countries. Only by such means can our foreign trade be favorably financed, necessary credits be arranged, and proper avail be made of commercial opportunities in foreign countries, and most especially in Latin America.

AID TO OUR FOREIGN MERCHANT MARINE.

Another instrumentality indispensable to the unhampered and natural development of American commerce is merchant marine. All maritime and commercial nations recognize the importance of this factor. The greatest commercial nations, our competitors, jealously foster their merchant marine. Perhaps nowhere is the need for rapid and direct mail, passenger and freight communication quite so urgent as between the United States and Latin America. We can secure in no other quarter of the world such immediate benefits in friendship and commerce as would flow from the establishment of direct lines of communication with the countries of Latin America adequate to meet the requirements of a rapidly increasing appreciation of the reciprocal dependence of the countries of the Western Hemisphere upon each other's products, sympathies and assistance.

I alluded to this most important subject in my last annual message; it has often been before you and I need not recapitulate the reasons for its recommendation. Unless prompt action be taken the completion of the Panama Canal will find this the only great commercial nation unable to avail in international maritime business of this great improvement in the means of the world's commercial intercourse.

Quite aside from the commercial aspect, unless we create a merchant marine, where can we find the seafaring population necessary as a natural naval reserve and where could we find, in case of war, the transports and subsidiary vessels without which a naval fleet is arms without a body? For many reasons I can not too strongly urge upon the Congress the passage of a measure by mail subsidy or other subvention adequate to guarantee the establishment and rapid development of an American merchant marine, and the restoration of the American flag to its ancient place upon the seas.

Of course such aid ought only to be given under conditions of publicity of each beneficiary's business and accounts which would show that the aid received was needed to maintain the trade and was properly used for that purpose.

FEDERAL PROTECTION TO ALIENS.

With our increasing international intercourse, it becomes incumbent upon me to repeat more emphatically than ever the recommendation which I made in my Inaugural Address that Congress shall at once give to the Courts of the United States jurisdiction to punish as a crime the violation of the rights of aliens secured by treaty with the United States, in order that the general government of the United States shall be able, when called upon by a friendly nation, to redeem its solemn promise by treaty to secure to the citizens or subjects of that nation resident in the United States, freedom from violence and due process of law in respect to their life, liberty and property.

MERIT SYSTEM FOR DIPLOMATIC AND CONSULAR SERVICE.

I also strongly commend to the favorable action of The Congress the enactment of a law applying to the diplomatic and consular service the principles embodied in Section 1753 of the Revised Statutes of the United States, in the Civil Service Act of January 16, 1883, and the Executive Orders of June 27, 1906, and of November 26, 1909. The excellent results which have attended the partial application of Civil Service principles to the diplomatic and consular services are an earnest of the benefit to be wrought by a wider and more permanent extension of those principles to both branches of the foreign service. The marked improvement in the consular service during the four years since the principles of the Civil Service Act were applied to that service in a limited way, and the good results already noticeable from a similar application of civil service principles to the diplomatic service a year ago, convince me that the enactment into law of the general principles of the existing executive regulations could not fail to effect further improvement of both branches of the foreign service, offering as it would by its assurance of permanency of tenure and promotion on merit, an inducement for the entry of capable young men into the service and an incentive to those already in to put forth their best efforts to attain and maintain that degree of efficiency which the interests of our international relations and commerce demand.

GOVERNMENT OWNERSHIP OF OUR EMBASSY AND LEGATION PREMISES.

During many years past appeals have been made from time to time to Congress in favor of Government ownership of embassy and legation premises abroad. The arguments in favor of such ownership have been many and oft repeated and are well known to the Congress. The acquisition by the Government of suitable residences

and offices for its diplomatic officers, especially in the capitals of the Latin-American States and of Europe, is so important and necessary to an improved diplomatic service that I have no hesitation in urging upon the Congress the passage of some measure similar to that favorably reported by the House Committee on Foreign Affairs on February 14, 1910 (Report No. 438), that would authorize the gradual and annual acquisition of premises for diplomatic use.

The work of the Diplomatic Service is devoid of partisanship; its importance should appeal to every American citizen and should receive the generous consideration of the Congress.

TREASURY DEPARTMENT.

ESTIMATES FOR NEXT YEAR'S EXPENSES.

Every effort has been made by each department chief to reduce the estimated cost of his department for the ensuing fiscal year ending June 30, 1912. I say this in order that Congress may understand that these estimates thus made present the smallest sum which will maintain the departments, bureaus, and offices of the Government and meet its other obligations under existing law, and that a cut of these estimates would result in embarrassing the executive branch of the Government in the performance of its duties. This remark does not apply to the river and harbor estimates, except to those for expenses of maintenances and the meeting of obligations under authorized contracts, nor does it apply to the public building bill nor to the navy building program. Of course, as to these Congress could withhold any part or all of the estimates for them without interfering with the discharge of the ordinary obligations of the Government or the performance of the functions of its departments, bureaus, and offices.

A FIFTY-TWO MILLION CUT.

The final estimates for the year ending June 30, 1912, as they have been sent to the Treasury, on November 29 of this year, for the ordinary expenses of the Government, including those for public buildings, rivers and harbors, and the navy building program, amount to \$630,494,013.12. This is \$52,964,887.36 less than the appropriations for the fiscal year ending June 30, 1911. It is \$16,883,153.44 less than the total estimates, including supplemental estimates submitted to Congress by the Treasury for the year 1911, and is \$5,574,659.39 less than the original estimates submitted by the Treasury for 1911.

These figures do not include the appropriations for the Panama Canal, the policy in respect to which ought to be, and is, to spend as much each year as can be economically and effectively expended in

order to complete the Canal as promptly as possible, and, therefore, the ordinary motive for cutting down the expense of the Government does not apply to appropriations for this purpose. It will be noted that the estimates for the Panama Canal for the ensuing year are more than fifty-six millions of dollars, an increase of twenty millions over the amount appropriated for this year—a difference due to the fact that the estimates for 1912 include something over nineteen millions for the fortification of the Canal. Against the estimated expenditures of \$630,494,013.12, the Treasury has estimated receipts for next year \$680,000,000, making a probable surplus of ordinary receipts over ordinary expenditures of about \$50,000,000.

A table showing in detail the estimates and the comparisons referred to follows:

Statement of estimates of appropriations for the fiscal years 1912 and 1911, and of appropriations for 1911, showing increases and decreases.

	Final estimates for 1912 as of November 29.	Original estimates submitted by the Treasury for 1911.	Total estimates for 1911 including supplements.	Appropriations for 1911.	Increase (+) and decrease (-), 1912 estimates against 1911 total estimates.	Increase (+) and decrease (-), 1912 estimates against 1911 appropriations.	Increase (+) and decrease (-), 1911 estimate against 1911 appropriations.	
Legislative.....	\$13,426,805.73	\$13,169,679.70	\$13,169,679.70	\$12,988,048.00	+	\$257,126.03	+	\$231,631.70
Executive.....	998,170.00	472,270.00	722,270.00	870,750.00	+	275,900.00	+	148,480.00
State Department.....	4,875,576.41	4,576,301.41	4,749,801.41	5,046,701.41	+	125,775.00	-	296,900.00
Treasury Department:								
Public buildings and works.....	68,735,451.00	69,865,240.00	70,393,543.75	69,973,434.61	-	1,658,092.75	+	420,109.14
Territorial governments.....	11,804,545.60	6,198,305.60	7,101,465.60	5,565,164.00	+	4,763,080.00	+	1,536,301.60
Independent offices.....	202,150.00	287,350.00	292,350.00	282,600.00	-	90,200.00	+	80,450.00
District of Columbia.....	2,635,695.12	2,400,695.12	2,492,695.12	2,128,695.12	+	146,000.00	+	364,000.00
War Department:	13,602,785.90	11,884,928.49	12,108,878.49	11,440,345.99	+	1,493,907.41	+	668,532.50
War Department proper.....	120,104,260.12	124,165,656.28	125,717,204.77	122,322,178.12	-	5,612,944.65	+	3,395,026.65
Rivers and harbors.....	28,232,438.00	28,232,465.00	28,232,465.00	49,390,541.50	-	27.00	-	21,158,076.50
Navy Department:								
Navy Department proper.....	116,101,730.24	117,029,914.38	119,708,860.83	119,696,870.46	-	3,667,130.59	+	171,990.37
New Navy building program.....	12,840,428.00	12,844,122.00	12,844,122.00	14,790,122.00	-	3,694.00	-	1,949,694.00
Interior Department.....	189,151,875.00	191,224,182.90	193,948,582.02	214,754,278.00	-	4,796,707.02	-	20,805,695.98
Post Office Department proper.....	1,697,490.00	1,695,690.00	1,695,690.00	2,085,005.33	-	1,800.00	-	389,315.33
Deficiency in postal revenues.....	19,681,066.00	10,634,122.63	10,634,122.63	10,634,122.63	-	10,634,122.65	-	67,904.76
Department of Agriculture.....	16,276,970.00	17,681,136.00	17,753,931.24	17,821,836.00	+	1,927,134.76	+	1,619,301.68
Department of Commerce and Labor.....	10,063,576.00	14,187,913.00	15,789,271.00	14,169,969.32	+	487,699.00	+	313,995.01
Department of Justice.....		9,518,640.00	9,982,233.00	9,648,237.99	+	101,343.00	+	
Total ordinary.....	630,494,013.12	636,068,672.51	647,377,166.56	633,458,900.48	-	16,883,153.44	-	36,081,733.92
Panama Canal.....	56,920,847.69	48,063,524.70	52,063,524.70	37,855,000.00	+	4,857,322.99	+	14,208,524.70
Total.....	687,414,860.81	684,132,197.21	699,440,691.26	721,313,900.48	-	12,025,830.45	-	21,873,209.22

TYPICAL ECONOMIES.

The Treasury Department is one of the original departments of the Government. With the changes in the monetary system made from time to time and with the creation of national banks, it was thought necessary to organize new bureaus and divisions which were added in a somewhat haphazard way and resulted in a duplication of duties which might well now be ended. This lack of system and economic coordination has attracted the attention of the head of that Department who has been giving his time for the last two years, with the aid of experts and by consulting his bureau chiefs, to its reformation. He has abolished four hundred places in the civil service without at all injuring its efficiency. Merely to illustrate the character of the reforms that are possible, I shall comment on some of the specific changes that are being made, or ought to be made by legislative aid.

AUDITING SYSTEM.

The auditing system in vogue is as old as the Government and the methods used are antiquated. There are six Auditors and seven Assistant Auditors for the nine departments, and under the present system the only function which the Auditor of a department exercises is to determine, on accounts presented by disbursing officers, that the object of the expenditure was within the law and the appropriation made by Congress for the purpose on its face, and that the calculations in the accounts are correct. He does not examine the merits of the transaction or determine the reasonableness of the price paid for the articles purchased, nor does he furnish any substantial check upon disbursing officers and the heads of departments or bureaus with sufficient promptness to enable the Government to recoup itself in full measure for unlawful expenditure. A careful plan is being devised and will be presented to Congress with the recommendation that the force of auditors and employees under them be greatly reduced thereby effecting substantial economy. But this economy will be small compared with the larger economy that can be effected by consolidation and change of methods. The possibilities in this regard have been shown in the reduction of expenses and the importance of methods and efficiency in the office of the Auditor for the Post Office Department, who, without in the slightest degree impairing the comprehensiveness and efficiency of his work, has cut down the expenses of his office \$120,000 a year.

CUSTOMS COLLECTION.

Again, in the collection of the revenues, especially the customs revenues, a very great improvement has been effected, and further improvements are contemplated. By the detection of frauds in weighing sugar, upwards of \$3,400,000 have been recovered from the beneficiaries of the fraud, and an entirely new system free from the possibilities of such abuse has been devised. The Department has perfected the method of collecting duties at the Port of New York so as to save the Government upwards of ten or eleven million dollars; and the same spirit of change and reform has been infused into the other customs offices of the country.

The methods used at many places are archaic. There would seem to be no reason at all why the Surveyor of the Port, who really acts for the Collector, should not be a subordinate of the Collector at a less salary and directly under his control, and there is but little reason for the existence of the Naval Officer, who is a kind of local auditor. His work is mainly an examination of accounts which is conducted again in Washington and which results in no greater security to the Government. The Naval Officers in the various ports are Presidential appointees, many of them drawing good salaries, and those offices should be abolished or with reduced force made part of the central auditing system.

There are entirely too many customs districts and too many customs collectors. These districts should be consolidated and the collectors in charge of them, who draw good salaries, many of them out of proportion to the collections made, should be abolished or treated as mere branch offices, in accordance with the plan of the Treasury Department, which will be presented for the consideration of Congress. As an illustration, the cost of collecting \$1 of revenue at typical small ports like the port of York, Me., was \$50.04. At the port of Annapolis, Md., it cost \$309.41 to collect \$1 of revenue; at Natchez, \$52.76; at Alexandria, Va., \$122.49.

It is not essential to the preventing of smuggling that customs districts should be increased in number. The violation of the customs laws can be quite as easily prevented, and much more economically, by the revenue-cutter service and by the use of the special agent traveling force of the Treasury Department. A reorganization of the special customs agents has been perfected with a view to retaining only those who have special knowledge of the customs laws, regulations, and usual methods of evasion, and with this improvement, there will be no danger to the Government from the recommended consolidation and abolition of customs districts.

An investigation of the appraising system now in vogue in New York City has shown a sacrifice of the interests of the Government

by under-appraisement, which is in the course of being remedied by reorganization and the employment of competent experts. Prosecutions have been instituted growing out of the frauds there discovered and are now awaiting hearing in the Federal Courts.

Very great improvements have been made in respect to the mints and assay offices. Diminished appropriations have been asked for those whose continuance is unnecessary, and this year's estimate of expenses is \$326,000 less than two years ago. There is an opportunity for further saving in the abolition of several mints and assay offices that have now become unnecessary. Modern machinery has been installed there, more and better work has been done, and the appropriations have been consequently diminished.

In the Bureau of Engraving and Printing, great economies have been effected. Useless divisions have been abolished with the result of saving \$440,000 this year in the total expenses of the Bureau despite increased business.

The Treasurer's office and that of the Division of Public Moneys in part cover the same functions and this is also true of the office of the Register and the Division of Loans and Currency. Plans for the elimination of the duplication in these offices will be presented to Congress.

COMPTROLLER OF THE CURRENCY.

The office of the Comptroller of the Currency is one most important in the preservation of proper banking methods in the national banking system of the United States, and the present Comptroller has impressed his subordinates with the necessity of so conducting their investigations as to establish the principle that every bank failure is unnecessary because proper inspection and notice of threatening conditions to the responsible directors and officers can prevent it.

PUBLIC BUILDINGS.

In our public buildings we still suffer from the method of appropriation, which has been so much criticised in connection with our rivers and harbors. Some method should be devised for controlling the supply of public buildings, so that they will harmonize with the actual needs of the Government. Then, when it comes to the actual construction, there has been in the past too little study of the building plans and sites with a view to the actual needs of the Government. Post-Office buildings which are in effect warehouses for the economical handling of transportation of thousands of tons of mail have been made monumental structures, and often located far from the convenient and economical spot. In the actual construction of the buildings, a closer scrutiny of the methods employed by the Government architects or by architects employed by the Government have

resulted in decided economies. It is hoped that more time will give opportunity for a more thorough reorganization. The last public building bill carried authorization for the ultimate expenditure of \$33,011,500 and I approved it because of the many good features it contained, just as I approved the river and harbor bill, but it was drawn upon a principle that ought to be abandoned. It seems to me that the wiser method of preparing a public building bill would be the preparation of a report by a commission of Government experts whose duty it should be to report to Congress the Government's needs in the way of the construction of public buildings in every part of the country, just as the Army Engineers make report with reference to the utility of proposed improvements in rivers and harbors, with the added function which I have recommended for the Army Engineers of including in their recommendation the relative importance of the various projects found to be worthy of approval and execution.

REVENUES.

As the Treasury Department is the one through which the income of the Government is collected and its expenditures are disbursed, this seems a proper place to consider the operation of the existing tariff bill, which became a law August 6, 1909. As an income-producing measure, the existing tariff bill has never been exceeded by any customs bill in the history of the country.

The corporation excise tax, proportioned to the net income of every business corporation in the country, has worked well. The tax has been easily collected. Its prompt payment indicates that the incidence of the tax has not been heavy. It offers, moreover, an opportunity for knowledge by the Government of the general condition and business of all corporations, and that means by far the most important part of the business of the country. In the original act provision was made for the publication of returns. This provision was subsequently amended by Congress, and the matter left to the regulation of the President. I have directed the issue of the needed regulations, and have made it possible for the public generally to know from an examination of the record, the returns of all corporations, the stock of which is listed on any public stock exchange or is offered for sale to the general public by advertisement or otherwise. The returns of those corporations whose stock is not so listed or offered for sale are directed to be open to the inspection and examination of creditors and stockholders of the corporation whose record is sought. The returns of all corporations are subject to the inspection of any government officer or to the examination of any court, in which the return made by the corporation is relevant and competent evidence.

THE PAYNE TARIFF ACT.

The schedules of the rates of duty in the Payne tariff act have been subjected to a great deal of criticism, some of it just, more of it unfounded, and to much misrepresentation. The act was adopted in pursuance of a declaration by the party which is responsible for it that a customs bill should be a tariff for the protection of home industries, the measure of the protection to be the difference between the cost of producing the imported article abroad and the cost of producing it at home, together with such addition to that difference as might give a reasonable profit to the home producer. The chief criticism of this tariff is a charge that in respect to a number of the schedules the declared measure was not followed, but a higher difference retained or inserted by way of undue discrimination in favor of certain industries and manufactures. Little, if any, of the criticism of the tariff has been directed against the protective principle above stated.

TARIFF BOARD.

The time in which the tariff was prepared undoubtedly was so short as to make it impossible for the Congress and its experts to acquire all the information necessary strictly to conform to the declared measure. In order to avoid criticism of this kind in the future and for the purpose of more nearly conforming to the party promise, Congress at its last session made provision at my request for the continuance of a board created under the authority of the maximum and minimum clause of the tariff bill, and authorized this board to expend the money appropriated under my direction for the ascertainment of the cost of production at home and abroad of the various articles included in the schedules of the tariff. The tariff board thus appointed and authorized has been diligent in preparing itself for the necessary investigations. The hope of those who have advocated the use of this board for tariff purposes is that the question of the rate of a duty imposed shall become more of a business question and less of a political question, to be ascertained by experts of long training and accurate knowledge. The halt in business and the shock to business, due to the announcement that a new tariff bill is to be prepared and put in operation, will be avoided by treating the schedules one by one as occasion shall arise for a change in the rates of each, and only after a report upon the schedule by the tariff board competent to make such report. It is not likely that the board will be able to make a report during the present session of Congress on any of the schedules, because a proper examination involves an enormous amount of detail and a great deal of care; but I hope to be able at the opening of the new Congress, or at least during the session of that Congress, to bring

to its attention the facts in regard to those schedules in the present tariff that may prove to need amendment. The carrying out of this plan, of course, involves the full cooperation of Congress in limiting the consideration in tariff matters to one schedule at a time, because if a proposed amendment to a tariff bill is to involve a complete consideration of all the schedules and another revision, then we shall only repeat the evil from which the business of this country has in times past suffered most grievously by stagnation and uncertainty, pending a resettlement of a law affecting all business directly or indirectly. I can not too much emphasize the importance and benefit of the plan above proposed for the treatment of the tariff. It facilitates the removal of noteworthy defects in an important law without a disturbance of business prosperity, which is even more important to the happiness and the comfort of the people than the elimination of instances of injustice in the tariff.

The inquiries which the members of the Tariff Board made during the last summer into the methods pursued by other Governments with reference to the fixing of tariffs and the determination of their effect upon trade, show that each Government maintains an office or bureau, the officers and employees of which have made their life work the study of tariff matters, of foreign and home prices and cost of articles imported, and the effect of the tariff upon trade, so that whenever a change is thought to be necessary in the tariff law this office is the source of the most reliable information as to the propriety of the change and its effect. I am strongly convinced that we need in this Government just such an office, and that it can be secured by making the Tariff Board already appointed a permanent tariff commission, with such duties, powers, and emoluments as it may seem wise to Congress to give. It has been proposed to enlarge the board from three to five. The present number is convenient, but I do not know that an increase of two members would be objectionable.

Whether or not the protective policy is to be continued, and the degree of protection to be accorded to our home industries, are questions which the people must decide through their chosen representatives; but whatever policy is adopted, it is clear that the necessary legislation should be based on an impartial, thorough, and continuous study of the facts.

BANKING AND CURRENCY REFORM.

The method of impartial scientific study by experts as a preliminary to legislation, which I hope to see ultimately adopted as our fixed national policy with respect to the tariff, rivers and harbors, waterways, and public buildings, is also being pursued by the non-partisan Monetary Commission of Congress. An exhaustive and

most valuable study of the banking and currency systems of foreign countries has been completed.

A comparison of the business methods and institutions of our powerful and successful commercial rivals with our own is sure to be of immense value. I urge upon Congress the importance of a nonpartisan and disinterested study and consideration of our banking and currency system. It is idle to dream of commercial expansion, and of the development of our national trade on a scale that measures up to our matchless opportunities, unless we can lay a solid foundation in a sound and enduring banking and currency system. The problem is not partisan, is not sectional—it is national.

WAR DEPARTMENT.

The War Department has within its jurisdiction the management of the Army, and, in connection therewith, the coast defenses; the government of the dependencies of the Philippines and of Porto Rico; the recommendation of plans for the improvement of harbors and waterways, and their execution when adopted; and, by virtue of an executive order, the supervision of the construction of the Panama Canal.

The Army of the United States is a small body compared with the total number of people for the preservation of whose peace and good order it is a last recourse. The Army now numbers about 80,000 men, of whom about 18,000 are engaged in the Coast Artillery and detailed to the management and use of the guns in the forts and batteries that protect our coasts. The rest of the Army, or about 60,000, is the mobile part of our national forces and is divided into 31 regiments of infantry, including the Porto Rican regiment, 15 regiments of cavalry, 6 regiments of field artillery, a corps of ordnance, of engineers, and of signal, a quartermaster's department, a commissary department, and a medical corps.

The general plan for an army of the United States at peace should be that of a skeleton organization with an excess of trained officers and thus capable of rapid enlargement by enlistments, to be supplemented in emergency by the national militia and a volunteer force. In some measure this plan has been adopted in the very large proportion of cavalry and field artillery as compared with infantry in the present army and on a peace basis. An infantry force can be trained in six months; a cavalry or a light artillery force not under one and one-half or two years; hence the importance of having ready a larger number of the more skilled soldiers.

The militia system, for which Congress by the Constitution is authorized to provide, was developed by the so-called Dick law, under which the discipline, the tactics, the drill, the rank, the uniform, and

the various branches of the militia are assimilated as far as possible to those of the Regular Army. Under the militia law, as the Constitution provides, the Governors of the States appoint the militia officers, but, by appropriations from Congress, States have been induced to comply with the rules of assimilation between the Regular Army and the militia, so that now there is a force, the efficiency of which differs in different States, which could be incorporated under a single command with the Regular Army, and which for some time each year receives the benefit of drill and maneuvers with conditions approximating actual military service, under the supervision of Regular Army officers.

In the Army of the United States, in addition to the regular forces and the militia forces which may be summoned to the defense of the Nation by the President, there is also the volunteer force, which made up a very large part of the army in the Civil War, and which in any war of long continuance would become its most important constituent. There is an act which dates from the Civil War, known as the Volunteer Act, which makes provision for the enlistment of volunteers in the Army of the United States in time of war. This was found to be so defective in the Philippine War that a special act for the organization of volunteer regiments to take part in that war was adopted, and it was much better adapted to the necessities of the case. There is now pending in Congress a bill repealing the present Volunteer Act and making provision for the organization of volunteer forces in time of war, which is admirably adapted to meet the exigencies which would be then presented. The passage of the bill would not entail a dollar's expense upon the Government at this time, or in the future, until war comes, but when war does come the methods therein directed are in accordance with the best military judgment as to what they ought to be, and the act would prevent the necessity for the discussion of new legislation and the delays incident to its consideration and adoption. I earnestly urge the passage of this Volunteer Bill.

I further recommend that Congress establish a commission to determine as early as practicable a comprehensive policy for the organization, mobilization and administration of the Regular Army, the organized militia, and the volunteer forces in the event of war.

NEED FOR ADDITIONAL OFFICERS.

One of the great difficulties in the prompt organization and mobilization of militia and volunteer forces is the absence of competent officers of the rank of captain to teach the new army, by the unit of the company, the business of being soldiers and of taking care of themselves so as to render effective service. This need of army

officers can only be supplied by provisions of law authorizing the appointment of a greater number of army officers than are needed to supply the commands of regular army troops now enlisted in the service. There are enough regular army officers to command the troops now enlisted, but Congress has authorized, and the Department has followed the example of Congress and exercised the authority conferred by detailing these army officers to duty other than that of the command of troops. For instance, there are a large number of army officers assigned to duty with military colleges or in colleges in which military training is given. Then a large number of officers are assigned to General Staff duty, and there are various other places to which army officers can be and are legally assigned, which take them away from their regiments and companies. In order that the militia of each State should be properly drilled and made more like the regular army, regular army officers should be detailed to assist the Adjutant-General of each State in the supervision of the state militia; but this is impossible unless provision is made by Congress for a very considerable increase in the number of company and field officers of the Army. A bill is pending in Congress for this purpose, and I earnestly hope that, in the interest of the proper development of a republican army, an army, small in the time of peace but possible of prompt and adequate enlargement in time of war, shall become possible under the laws of the United States.

PROPOSED INCREASE IN ARMY ENGINEERS.

A bill, the strong argument for which can be based on the ground quite similar to that of the increased officers bill, is a bill for the increase of sixty in the Army Engineers. The Army Engineers are largely employed in the expenditure of the moneys appropriated for the improvement of rivers and harbors and in the construction of the Panama Canal. This, in addition to their military duties, which include the building of fortifications both on our coasts and in our dependencies, requires many more engineers than the Army has, and public works, civil and military, are, therefore, much delayed. I earnestly recommend the passage of this bill, which passed the House at the last session and is now pending in the Senate.

FORTIFICATIONS.

I have directed that the estimates for appropriation for the improvement of coast defenses in the United States should be reduced to a minimum, while those for the completion of the needed fortifications at Corregidor in the Philippine Islands and at Pearl Harbor in the Hawaiian Islands should be expedited as much as possible. The proposition to make Olongapo and Subig Bay the

naval base for the Pacific was given up, and it is to be treated merely as a supply station, while the fortifications in the Philippines are to be largely confined to Corregidor Island and the adjacent islands which command entrance to Manila Bay and which are being rendered impregnable from land and sea attack. The Pacific Naval base has been transferred to Pearl Harbor in the Hawaiian Islands. This necessitates the heavy fortification of the harbor and the establishment of an important military station near Honolulu. I urge that all the estimates made by the War Department for these purposes be approved by Congressional appropriation.

PHILIPPINE ISLANDS.

During the last summer, at my request, the Secretary of War visited the Philippine Islands and has described his trip in his report. He found the Islands in a state of tranquillity and growing prosperity, due largely to the change in the tariff laws, which has opened the markets of America to the products of the Philippines, and has opened the Philippine markets to American manufactures. The rapid increase in the trade between the two countries is shown in the following table:

Philippine exports, fiscal years 1908-1910.

[Exclusive of gold and silver.]

Fiscal year.	To—		Total.
	United States.	Other countries.	
1908.....	\$10,323,233	\$22,493,334	\$32,816,567
1909.....	10,215,331	20,778,232	30,993,563
1910.....	18,741,771	21,122,398	39,864,169

NOTE.—Latest monthly returns show exports for the year ending August, 1910, to the United States \$20,035,902, or 49 per cent of the \$41,075,738 total, against \$11,031,275 to the United States, or 34 per cent of the \$32,183,871 total for the year ending August, 1909.

Philippine imports, fiscal years 1908-1910.

[Exclusive of gold and silver and government supplies.]

Fiscal year.	From—		Total.
	United States.	Other countries.	
1908.....	\$5,079,487	\$25,838,870	\$30,918,357
1909.....	4,691,770	23,100,627	27,792,397
1910.....	10,775,301	26,292,329	37,067,630

NOTE.—Latest monthly returns show imports for the year ending August, 1910, from the United States \$11,615,982, or 30 per cent of the \$39,025,667 total, against \$5,193,419 from the United States, or 18 per cent of the \$28,948,011 total for the year ending August, 1909.

PORTO RICO.

The year has been one of prosperity and progress in Porto Rico. Certain political changes are embodied in the bill "To Provide a Civil Government for Porto Rico and for other Purposes," which passed the House of Representatives on June 15, 1910, at the last session of Congress, and is now awaiting the action of the Senate.

The importance of those features of this bill relating to public health and sanitation can not be overestimated.

The removal from politics of the judiciary by providing for the appointment of the municipal judges is excellent, and I recommend that a step further be taken by providing therein for the appointment of secretaries and marshals of these courts.

The provision in the bill for a partially elective senate, the number of elective members being progressively increased, is of doubtful wisdom, and the composition of the senate as provided in the bill when introduced in the House, seems better to meet conditions existing in Porto Rico. This is an important measure, and I recommend its early consideration and passage.

RIVERS AND HARBORS.

I have already expressed my opinion to Congress in respect to the character of the river and harbor bills which should be enacted into law; and I have exercised as much power as I could under the law in directing the Chief of Engineers to make his reports to Congress conform to the needs of the committee framing such a bill in determining which of the proposed improvements is the more important and ought to be completed first, and promptly.

PANAMA CANAL.

At the instance of Colonel Goethals, the Army Engineer officer in charge of the work on the Panama Canal, I have just made a visit to the Isthmus to inspect the work done and to consult with him on the ground as to certain problems which are likely to arise in the near future. The progress of the work is most satisfactory. If no unexpected obstacle presents itself, the canal will be completed well within the time fixed by Colonel Goethals, to wit, January 1, 1915, and within the estimate of cost, \$375,000,000.

Press reports have reached the United States from time to time giving accounts of slides of earth of very large yardage in the Culebra Cut and elsewhere along the line, from which it might be inferred that the work has been much retarded and that the time of completion has been necessarily postponed.

The report of Doctor Hayes, of the Geological Survey, whom I sent within the last month to the Isthmus to make an investigation, shows that this section of the Canal Zone is composed of sedimentary rocks of rather weak structure and subject to almost immediate disintegration when exposed to the air. Subsequent to the deposition of these sediments, igneous rocks, harder and more durable, have been thrust into them, and being cold at the time of their intrusion united but indifferently with the sedimentary rock at the contacts. The result of these conditions is that as the cut is deepened, causing unbalanced pressures, slides from the sides of the cut have occurred. These are in part due to the flowing of surface soil and decomposed sedimentary rocks upon inclined surfaces of the underlying undecomposed rock and in part by the crushing of structurally weak beds under excessive pressure. These slides occur on one side or the other of the cut through a distance of 4 or 5 miles, and now that their character is understood, allowance has been made in the calculations of yardage for the amount of slides which will have to be removed and the greater slope that will have to be given to the bank in many places in order to prevent their recurrence. Such allowance does not exceed ten millions of yards. Considering that the number of yards removed from this cut on an average of each month through the year is 1,300,000, and that the total remaining to be excavated, including slides, is about 30,000,000 yards, it is seen that this addition to the excavation does not offer any great reason for delay.

While this feature of the material to be excavated in the cut will not seriously delay or obstruct the construction of a canal of the lock type, the increase of excavation due to such slides in the cut made 85 feet deeper for a sea-level canal would certainly have been so great as to delay its completion to a time beyond the patience of the American people.

FORTIFY THE CANAL.

Among questions arising for present solution is whether the Canal shall be fortified. I have already stated to the Congress that I strongly favor fortification and I now reiterate this opinion and ask your consideration of the subject in the light of the report already before you made by a competent board.

If, in our discretion, we believe modern fortifications to be necessary to the adequate protection and policing of the Canal, then it is our duty to construct them. We have built the Canal. It is our property. By convention we have indicated our desire for, and indeed undertaken, its universal and equal use. It is also well known that one of the chief objects in the construction of the Canal has been to increase the military effectiveness of our Navy.

Failure to fortify the Canal would make the attainment of both these aims depend upon the mere moral obligations of the whole international public—obligations which we would be powerless to enforce and which could never in any other way be absolutely safeguarded against a desperate and irresponsible enemy.

CANAL TOLLS.

Another question which arises for consideration and possible legislation is the question of tolls in the Canal. This question is necessarily affected by the probable tonnage which will go through the Canal. It is all a matter of estimate, but one of the government commission in 1900 investigated the question and made a report. He concluded that the total tonnage of the vessels employed in commerce that could use the Isthmian Canal in 1914 would amount to 6,843,805 tons net register, and that this traffic would increase 25.1 per cent per decade; that it was not probable that all the commerce included in the totals would at once abandon the routes at present followed and make use of the new Canal, and that it might take some time, perhaps two years, to readjust trade with reference to the new conditions which the Canal would establish. He did not include, moreover, the tonnage of war vessels, although it is to be inferred that such vessels would make considerable use of the Canal. In the matter of tolls he reached the conclusion that a dollar a net ton would not drive business away from the Canal, but that a higher rate would do so.

In determining what the tolls should be we certainly ought not to insist that they should at once amount to enough to pay the interest on the investment of \$400,000,000 which the United States has made in the construction of the Canal. We ought not to do this, first, because the benefit to be derived by the United States from this expenditure is not to be measured solely by a return upon the investment. If it were, then the construction might well have been left to private enterprise. It was because an adequate return upon the money invested could not be expected immediately, or in the near future, and because there were peculiar political advantages to be derived from the construction of the Canal that it fell to the Government to advance the money and perform the work.

In addition to the benefit to our naval strength, the Canal greatly increases the trade facilities of the United States. It will undoubtedly cheapen the rates of transportation in all freight between the Eastern and Western seaboard. Then, if we are to have a world canal, and if we are anxious that the world's trade shall use it, we must recognize that we have an active competitor in the Suez Canal and that there are other means of carriage between the two oceans—

by the Tehauntepec Railroad and by other railroads and freight routes in Central America.

In all these cases the question whether the Panama Canal is to be used and its tonnage increased will be determined mainly by the charge for its use. My own impression is that the tolls ought not to exceed \$1 per net ton. On January 1, 1911, the tolls in the Suez Canal are to be 7 francs and 25 centimes for 1 net ton by Suez Canal measurement, which is a modification of Danube measurement. A dollar a ton will secure under the figures above a gross income from the Panama Canal of nearly \$7,000,000. The cost of maintenance and operation is estimated to exceed \$3,000,000. Ultimately, of course, with the normal increase in trade, we hope the income will approximate the interest charges upon the investment. The inquiries already made of the Chief Engineer of the Canal show that the present consideration of this question is necessary in order that the commerce of the world may have time to adjust itself to the new conditions resulting from the opening of this new highway. On the whole I should recommend that within certain limits the President be authorized to fix the tolls of the Canal and adjust them to what seems to be commercial necessity.

MAINTENANCE OF CANAL.

The next question that arises is as to the maintenance, management, and general control of the canal after its completion. It should be premised that it is an essential part of our navy establishment to have the coal, oil and other ship supplies, a dry dock, and repair shops, conveniently located with reference to naval vessels passing through the canal. Now, if the Government, for naval purposes, is to undertake to furnish these conveniences to the navy, and they are conveniences equally required by commercial vessels, there would seem to be strong reasons why the Government should take over and include in its management the furnishing, not only to the navy but to the public, dry-dock and repair-shop facilities, and the sale of coal, oil, and other ship supplies.

The maintenance of a lock canal of this enormous size in a sparsely populated country and in the tropics, where the danger from disease is always present, requires a large and complete and well-trained organization with full police powers, exercising the utmost care. The visitor to the canal who is impressed with the wonderful freedom from tropical diseases on the Isthmus must not be misled as to the constant vigilance that is needed to preserve this condition. The vast machinery of the locks, the necessary amount of dredging, the preservation of the banks of the canal from slides, the operation and the maintenance of the equipment of the railway—will all require a force, not, of course, to be likened in any way to the present

organization for construction, but a skilled body of men who can keep in a state of usefulness this great instrument of commerce. Such an organization makes it easy to include within its functions the furnishing of dry-dock, fuel, repairs and supply facilities to the trade of the world. These will be more essential at the Isthmus of Panama than they are at Port Said or Suez, because there are no depots for coal, supplies, and other commercial necessities within thousands of miles of the Isthmus.

Another important reason why these ancillary duties may well be undertaken by the Government is the opportunity for discrimination between patrons of the canal that is offered where private concessions are granted for the furnishing of these facilities. Nothing would create greater prejudice against the canal than the suspicion that certain lines of traffic were favored in the furnishing of supplies or that the supplies were controlled by any large interest that might have a motive for increasing the cost of the use of the canal. It may be added that the termini are not ample enough to permit the fullest competition in respect to the furnishing of these facilities and necessities to the world's trade even if it were wise to invite such competition and the granting of the concession would necessarily, under these circumstances, take on the appearance of privilege or monopoly.

PROHIBITION OF RAILROAD OWNERSHIP OF CANAL STEAMERS.

I can not close this reference to the canal without suggesting as a wise amendment to the interstate commerce law a provision prohibiting interstate commerce railroads from owning or controlling ships engaged in the trade through the Panama Canal. I believe such a provision may be needed to save to the people of the United States the benefits of the competition in trade between the eastern and western seaboard which this canal was constructed to secure.

DEPARTMENT OF JUSTICE.

The duties of the Department of Justice have been greatly increased by legislation of Congress enacted in the interest of the general welfare of the people and extending its activities into avenues plainly within its constitutional jurisdiction, but which it has not been thought wise or necessary for the General Government heretofore to occupy.

I am glad to say that under the appropriations made for the Department, the Attorney-General has so improved its organization that a vast amount of litigation of a civil and criminal character has been disposed of during the current year. This will explain the necessity for slightly increasing the estimates for the expenses of

the Department. His report shows the recoveries made on behalf of the Government, of duties fraudulently withheld, public lands improperly patented, fines and penalties for trespass, prosecutions and convictions under the antitrust law, and prosecutions under the interstate-commerce law. I invite especial attention to the prosecutions under the Federal law of the so-called "bucket shops," and of those schemes to defraud in which the use of the mail is an essential part of the fraudulent conspiracy, prosecutions which have saved ignorant and weak members of the public and are saving them hundreds of millions of dollars. The violations of the antitrust law present perhaps the most important litigation before the Department, and the number of cases filed shows the activity of the Government in enforcing that statute.

NATIONAL INCORPORATION.

In a special message last year I brought to the attention of Congress the propriety and wisdom of enacting a general law providing for the incorporation of industrial and other companies engaged in interstate commerce, and I renew my recommendation in that behalf.

PAYMENT OF JUST CLAIMS.

I invite the attention of Congress to the great number of claims which, at the instance of Congress, have been considered by the Court of Claims and decided to be valid claims against the Government. The delay that occurs in the payment of the money due under the claims injures the reputation of the Government as an honest debtor, and I earnestly recommend that those claims which come to Congress with the judgment and approval of the Court of Claims should be promptly paid.

REFORM IN JUDICIAL PROCEDURE.

One great crying need in the United States is cheapening the cost of litigation by simplifying judicial procedure and expediting final judgment. Under present conditions the poor man is at a woeful disadvantage in a legal contest with a corporation or a rich opponent. The necessity for the reform exists both in United States courts and in all State courts. In order to bring it about, however, it naturally falls to the General Government by its example to furnish a model to all States. A legislative commission appointed by joint resolution of Congress to revise the procedure in the United States courts has as yet made no report.

Under the law the Supreme Court of the United States has the power and is given the duty to frame the equity rules of procedure which are

to obtain in the Federal courts of first instance. In view of the heavy burden of pressing litigation which that Court has had to carry, with one or two of its members incapacitated through ill health, it has not been able to take up problems of improving the equity procedure, which has practically remained the same since the organization of the Court in 1789. It is reasonable to expect that with all the vacancies upon the Court filled, it will take up the question of cheapening and simplifying the procedure in equity in the courts of the United States. The equity business is much the more important in the Federal courts, and I may add much the more expensive. I am strongly convinced that the best method of improving judicial procedure at law is to empower the Supreme Court to do it through the medium of the rules of the court, as in equity. This is the way in which it has been done in England, and thoroughly done. The simplicity and expedition of procedure in the English courts to-day make a model for the reform of other systems.

Several of the Lord Chancellors of England and of the Chief Justices have left their lasting impress upon the history of their country by their constructive ability in proposing and securing the passage of remedial legislation effecting law reforms. I can not conceive any higher duty that the Supreme Court could perform than in leading the way to a simplification of procedure in the United States courts.

RELIEF OF SUPREME COURT FROM UNNECESSARY APPEALS.

. No man ought to have, as a matter of right, a review of his case by the Supreme Court. He should be satisfied by one hearing before a court of first instance and one review by a court of appeals. The proper and chief usefulness of a Supreme Court, and especially of the Supreme Court of the United States, is, in the cases which come before it, so to expound the law, and especially the fundamental law—the Constitution—as to furnish precedents for the inferior courts in future litigation and for the executive officers in the construction of statutes and the performance of their legal duties. Therefore, any provisions for review of cases by the Supreme Court that cast upon that Court the duty of passing on questions of evidence and the construction of particular forms of instruments, like indictments, or wills, or contracts, decisions not of general application or importance, merely clog and burden the Court and render more difficult its higher function, which makes it so important a part of the framework of our Government. The Supreme Court is now carrying an unnecessary burden of appeals of this kind, and I earnestly urge that it be removed.

The statutes respecting the review by the Supreme Court of the United States of decisions of the Court of Appeals of the District of

Columbia ought to be so amended as to place that court in the same position with respect to the review of its decisions as that of the various United States Circuit Courts of Appeals. The act of March 2, 1907, authorizing appeals by the Government from certain judgments in criminal cases where the defendant has not been put in jeopardy, within the meaning of the Constitution, should be amended so that such appeals should be taken to the Circuit Courts of Appeals instead of to the Supreme Court in all cases except those involving the construction of the Constitution or the constitutionality of a statute, with the same power in the Supreme Court to review on *certiorari* as is now exercised by that court over determinations of the several Circuit Courts of Appeals. Appeals in copyright cases should reach final judgment in the courts of appeals instead of the Supreme Court as now. The decision of the courts of appeals should be made final also in all cases wherein jurisdiction rests on both diverse citizenship and the existence of a federal question, and not as now be reviewable in the Supreme Court when the case involves more than one thousand dollars. Appeals from the United States Court in Porto Rico should run to the Circuit Court of Appeals of the third circuit instead of to the Supreme Court. These suggested changes would, I am advised, relieve the Supreme Court of the consideration of about 100 cases annually.

The American Bar Association has had before it the question of reducing the burden of litigation involved in reversals on review and new trials or re-hearings and in frivolous appeals in habeas corpus and criminal cases. Their recommendations have been embodied in bills now pending in Congress. The recommendations are not radical, but they will accomplish much if adopted into law, and I earnestly recommend the passage of the bills embodying them.

INJUNCTION BILL.

I wish to renew my urgent recommendation made in my last Annual Message in favor of the passage of a law which shall regulate the issuing of injunctions in equity without notice in accordance with the best practice now in vogue in the courts of the United States. I regard this of especial importance, first because it has been promised, and second because it will deprive those who now complain of certain alleged abuses in the improper issuing of injunctions without notice of any real ground for further amendment and will take away all semblance of support for the extremely radical legislation they propose, which will be most pernicious if adopted, will sap the foundations of judicial power, and legalize that cruel social instrument, the secondary boycott.

JUDICIAL SALARIES.

I further recommend to Congress the passage of the bill now pending for the increase in the salaries of the Federal Judges, by which the Chief Justice of the United States shall receive \$17,500 and the Associate Justices of the Supreme Court \$17,000; the Circuit Judges constituting the Circuit Court of Appeals shall receive \$10,000, and the District Judges \$9,000. These judges exercise a wide jurisdiction and their duties require of them a profound knowledge of the law, great ability in the dispatch of business, and care and delicacy in the exercise of their jurisdiction so as to avoid conflict whenever possible between the Federal and the State courts. The position they occupy ought to be filled by men who have shown the greatest ability in their professional work at the bar, and it is the poorest economy possible for the Government to pay salaries so low for judicial service as not to be able to command the best talent of the legal profession in every part of the country. The cost of living is such, especially in the large cities, that even the salaries fixed in the proposed bill will enable the incumbents to accumulate little, if anything, to support their families after their death. Nothing is so important to the preservation of our country and its beloved institutions as the maintenance of the independence of the judiciary, and next to the life tenure an adequate salary is the most material contribution to the maintenance of independence on the part of our Judges.

POST-OFFICE DEPARTMENT.

POSTAL SAVINGS BANKS.

At its last session Congress made provision for the establishment of savings banks by the Post-Office Department of this Government, by which, under the general control of trustees, consisting of the Postmaster-General, the Secretary of the Treasury and the Attorney-General, the system could be begun in a few cities and towns, and enlarged to cover within its operations as many cities and towns and as large a part of the country as seemed wise. The initiation and establishment of such a system has required a great deal of study on the part of the experts in the Post-Office and Treasury Departments, but a system has now been devised which is believed to be more economical and simpler in its operation than any similar system abroad. Arrangements have been perfected so that savings banks will be opened in some cities and towns on the 1st of January, and there will be a gradual extension of the benefits of the plan to the rest of the country.

WIPING OUT OF POSTAL DEFICIT.

As I have said, the Post-Office Department is a great business department, and I am glad to note the fact that under its present management principles of business economy and efficiency are being applied. For many years there has been a deficit in the operations of the Post-Office Department which has been met by appropriation from the Treasury. The appropriation estimated for last year from the Treasury over and above the receipts of the Department was \$17,500,000. I am glad to record the fact that of that \$17,500,000 estimated for, \$11,500,000 were saved and returned to the Treasury. The personal efforts of the Postmaster-General secured the effective cooperation of the thousands of postmasters and other postal officers throughout the country in carrying out his plans of reorganization and retrenchment. The result is that the Postmaster-General has been able to make his estimate of expenses for the present year so low as to keep within the amount the postal service is expected to earn. It is gratifying to report that the reduction in the deficit has been accomplished without any curtailment of postal facilities. On the contrary the service has been greatly extended during the year in all its branches. A principle which the Postmaster-General has recommended and sought to have enforced in respect to all appointments has been that those appointees who have rendered good service should be reappointed. This has greatly strengthened the interest of postmasters throughout the country in maintaining efficiency and economy in their offices, because they believed generally that this would secure for them a further tenure.

EXTENSION OF THE CLASSIFIED SERVICE.

Upon the recommendation of the Postmaster-General, I have included in the classified service all assistant postmasters, and I believe that this giving a secure tenure to those who are the most important subordinates of Postmasters will add much to the efficiency of their offices and an economical administration. A large number of the fourth-class postmasters are now in the classified service. I think it would be wise to put in the classified service the first, second, and third class postmasters. It is more logical to do this than to classify the fourth-class postmasters, for the reason that the fourth-class post-offices are invariably small, and the postmasters are necessarily men who must combine some other business with the postmastership, whereas the first, second, and third class postmasters are paid a sufficient amount to justify the requirement that they shall have no other business and that they shall devote their attention to their post-office duties. To classify first, second, and third class postmasters would require the passage of an act changing the

method of their appointment so as to take away the necessity for the advice and consent of the Senate. I am aware that this inviting from the Senate a concession in respect to its quasi executive power that is considerable, but I believe it to be in the interest of good administration and efficiency of service. To make this change would take the postmasters out of politics; would relieve Congressmen who now are burdened with the necessity of making recommendations for these places of a responsibility that must be irksome and can create nothing but trouble; and it would result in securing from postmasters greater attention to business, greater fidelity, and consequently greater economy and efficiency in the post-offices which they conduct.

THE FRANKING PRIVILEGE.

The unrestricted manner in which the franking privilege is now being used by the several branches of the Federal service and by Congress has laid it open to serious abuses, a fact clearly established through investigations recently instituted by the Department. While it has been impossible without a better control of franking to determine the exact expense to the Government of this practice, there can be no doubt that it annually reaches into the millions. It is believed that many abuses of the franking system could be prevented, and consequently a marked economy effected, by supplying through the agencies of the postal service special official envelopes and stamps for the free mail of the Government, all such envelopes and stamps to be issued on requisition to the various branches of the federal service requiring them, and such records to be kept of all official stamp supplies as will enable the Post-Office Department to maintain a proper postage account covering the entire volume of free Government mail. As the first step in the direction of this reform, special stamps and stamped envelopes have been provided for use instead of franks in the free transmission of the official mail resulting from the business of the new postal savings system. By properly recording the issuance of such stamps and envelopes accurate records can be kept of the cost to the Government of handling the postal savings mail, which is certain to become an important item of expense and one that should be separately determined. In keeping with this plan it is hoped that Congress will authorize the substitution of special official stamps and stamped envelopes for the various forms of franks now used to carry free of postage the vast volume of Departmental and Congressional mail matter. During the past year methods of accounting similar to those employed in the most progressive of our business establishments have been introduced in the postal service and nothing has so impeded the Depart-

ment's plans in this regard as the impossibility of determining with any exactness how far the various expenses of the postal service are increased by the present unrestricted use of the franking privilege. It is believed that the adoption of a more exact method of dealing with this problem as proposed will prove to be of tremendous advantage in the work of placing the postal service on a strictly businesslike basis.

SECOND-CLASS MAIL MATTER.

In my last Annual Message I invited the attention of Congress to the inadequacy of the postal rate imposed upon second-class mail matter in so far as that includes magazines, and showed by figures prepared by experts of the Post-Office Department that the Government was rendering a service to the magazines, costing many millions in excess of the compensation paid. An answer was attempted to this by the representatives of the magazines, and a reply was filed to this answer by the Post-Office Department. The utter inadequacy of the answer, considered in the light of the reply of the Post-Office Department, I think must appeal to any fair-minded person. Whether the answer was all that could be said in behalf of the magazines is another question. I agree that the question is one of fact; but I insist that if the fact is as the experts of the Post-Office Department show, that we are furnishing to the owners of magazines a service worth millions more than they pay for it, then justice requires that the rate should be increased. The increase in the receipts of the Department resulting from this change may be devoted to increasing the usefulness of the Department in establishing a parcels post and in reducing the cost of first-class postage to one cent. It has been said by the Postmaster-General that a fair adjustment might be made under which the advertising part of the magazine should be charged for at a different and higher rate from that of the reading matter. This would relieve many useful magazines that are not circulated at a profit, and would not shut them out from the use of the mails by a prohibitory rate.

PARCELS POST.

With respect to the parcels post, I respectfully recommend its adoption on all rural-delivery routes, and that 11 pounds—the international limit—be made the limit of carriage in such post, and this, with a view to its general extension when the income of the Post-Office will permit it and the Postal Savings Banks shall have been fully established. The same argument is made against the parcels post that was made against the postal savings bank—that it is introducing the Government into a business which ought to be conducted by private persons, and is paternalism. The Post-Office Department

has a great plant and a great organization, reaching into the most remote hamlet of the United States, and with this machinery it is able to do a great many things economically that if a new organization were necessary it would be impossible to do without extravagant expenditure. That is the reason why the postal savings bank can be carried on at a small additional cost, and why it is possible to incorporate at a very inconsiderable expense a parcels post in the rural-delivery system. A general parcels post will involve a much greater outlay.

NAVY DEPARTMENT.

REORGANIZATION.

In the last annual report of the Secretary of the Navy and in my Annual Message, attention was called to the new detail of officers in the Navy Department by which officers of flag rank were assigned to duty as Aides to the Secretary in respect to naval operations, personnel, inspection, and material. This change was a substantial compliance with the recommendation of the Commission on Naval Reorganization, headed by Mr. Justice Moody, and submitted to President Roosevelt on February 26, 1909. Through the advice of this committee of line officers, the Secretary is able to bring about a proper coordination of all the branches of the naval department with greater military efficiency. The Secretary of the Navy recommends that this new organization be recognized by legislation and thus made permanent. I concur in the recommendation.

LEGISLATIVE RECOMMENDATIONS.

The Secretary, in view of the conclusions of a recent Court of Inquiry on certain phases of Marine Corps administration, recommends that the Major-General Commandant of the Marine Corps be appointed for a four years' term, and that officers of the Adjutant and Inspector's department be detailed from the line. He also asks for legislation to improve the conditions now existing in the personnel of officers of the Navy, particularly with regard to the age and experience of flag officers and captains, and points out that it is essential to the highest efficiency of the Navy that the age of our officers be reduced and that flag officers, particularly, should gain proper experience as flag officers, in order to enable them to properly command fleets. I concur in the Secretary's recommendations.

COVERING OF NAVAL SUPPLY FUND INTO TREASURY.

I commend to your attention the report of the Secretary on the change in the system of cost accounting in navy-yards, and also to the history of the naval supply fund and the present conditions

existing in regard to that matter. Under previous practice and what now seems to have been an erroneous construction of the law, the supply fund of the navy was increased from \$2,700,000 to something over \$14,000,000, and a system of accounting was introduced which prevented the striking of a proper balance and a knowledge of the exact cost of maintaining the naval establishment. The system has now been abandoned and a Naval Supply Account established by law July 1, 1910. The Naval Supply fund of \$2,700,000 is now on deposit in the Treasury to the credit of the Department. The Secretary recommends that the Naval Supply Account be made permanent by law and that the \$2,700,000 of the naval supply fund be covered into the Treasury as unnecessary, and I ask for legislative authority to do this. This sum when covered into the Treasury will be really a reduction in the recorded Naval cost for this year.

ESTIMATES AND BUILDING PROGRAM.

The estimates of the Navy Department are \$5,000,000 less than the appropriations for the same purpose last year, and included in this is the building program of the same amount as that submitted for your consideration last year. It is merely carrying out the plan of building two battleships a year, with a few needed auxiliary vessels. I earnestly hope that this program will be adopted.

ABOLITION OF NAVY-YARDS.

The Secretary of the Navy has given personal examination to every navy-yard and has studied the uses of the navy-yards with reference to the necessities of our fleet. With a fleet considerably less than half the size of that of the British navy, we have shipyards more than double the number, and there are several of these shipyards, expensively equipped with modern machinery, which after investigation the Secretary of the Navy believes to be entirely useless for naval purposes. He asks authority to abandon certain of them and to move their machinery to other places where it can be made of use.

In making these recommendations the Secretary is following directly along progressive lines which have been adopted in our great commercial and manufacturing consolidations in this country; that is, of dismantling unnecessary and inadequate plants and discontinuing their existence where it has been demonstrated that it is unprofitable to continue their maintenance at an expense not commensurate to their product.

GUANTANAMO PROPER NAVAL BASE.

The Secretary points out that the most important naval base in the West Indies is Guantanamo, in the southeastern part of Cuba. Its geographical situation is admirably adapted to protect the commercial paths to the Panama Canal, and he shows that by the expenditure of less than half a million dollars, with the machinery which he shall take from other navy-yards, he can create a naval station at Guantanamo of sufficient size and equipment to serve the purpose of an emergency naval base. I earnestly join in the recommendation that he be given the authority which he asks. I am quite aware that such action is likely to arouse local opposition; but I conceive it to be axiomatic that in legislating in the interest of the Navy, and for the general protection of the country by the Navy, mere local pride or pecuniary interest in the establishment of a navy-yard or station ought to play no part. The recommendation of the Secretary is based upon the judgment of impartial naval officers, entirely uninfluenced by any geographical or sectional considerations.

JOHN PAUL JONES.

I unite with the Secretary in the recommendation that an appropriation be made to construct a suitable crypt at Annapolis for the custody of the remains of John Paul Jones.

PEARY.

The complete success of our country in Arctic exploration should not remain unnoticed. For centuries there has been friendly rivalry in this field of effort between the foremost nations and between the bravest and most accomplished men. Expeditions to the unknown North have been encouraged by enlightened governments and deserved honors have been granted to the daring men who have conducted them. The unparalleled accomplishment of an American in reaching the North Pole, April 6, 1909, approved by critical examination of the most expert scientists, has added to the distinction of our navy, to which he belongs, and reflects credit upon his country. His unique success has received generous acknowledgment from scientific bodies and institutions of learning in Europe and America. I recommend fitting recognition by Congress of the great achievement of Robert Edwin Peary.

DEPARTMENT OF THE INTERIOR.

APPEALS TO COURT IN LAND CASES.

The Secretary of the Interior recommends a change of the law in respect to the procedure in adjudicating claims for lands, by which appeals can be taken from the decisions of the Department to the Court of Appeals of the District of Columbia for a judicial consideration of the rights of the claimant. This change finds complete analogy in the present provision for appeals from the decisions of the Commissioner of Patents. The judgments of the court in such cases would be of decisive value to land claimants generally and to the Department of the Interior in the administration of the law, would enable claimants to bring into Court the final consideration of issues as to the title to Government land and would, I think, obviate a good deal of the subsequent litigation that now arises in our Western courts. The bill is pending, I believe, in the House, having been favorably reported from the Committee on Public Lands, and I recommend its enactment.

ARREARS WIPED OUT.

One of the difficulties in the Interior Department and in the Land Office has been the delays attendant upon the consideration by the Land Office and the Secretary of the Interior of claims for patents of public lands to individuals. I am glad to say that under the recent appropriations of the Congress and the earnest efforts of the Secretary and his subordinates, these arrears have been disposed of, and the work of the Department has been brought more nearly up to date in respect to the pending business than ever before in its history. Economies have been effected where possible without legislative assistance, and these are shown in the reduced estimates for the expenses of the Department during the current fiscal year and during the year to come.

CONSERVATION.

The subject of the conservation of the public domain has commanded the attention of the people within the last two or three years.

AGRICULTURAL LANDS.

There is no need for radical reform in the methods of disposing of what are really agricultural lands. The present laws have worked well. The enlarged homestead law has encouraged the successful farming of lands in the semiarid regions.

RECLAMATION.

The total sum already accumulated in the fund provided by the act for the reclamation of arid lands is about \$69,449,058.76, and of this, all but \$6,241,058.76 has been allotted to the various projects, of which there are thirty. Congress at its last session provided for the issuing of certificates of indebtedness not exceeding twenty millions of dollars, to be redeemed from the reclamation fund when the proceeds of lands sold and from the water-rents should be sufficient. Meantime, in accordance with the provisions of the law, I appointed a board of army engineers to examine the projects and to ascertain which are feasible and worthy of completion. That board has made a report upon the subject, which I shall transmit in a separate message within a few days.

CONSERVATION ADDRESS.

In September last a conservation Congress was held at St. Paul, at which I delivered an address on the subject of conservation so far as it was within the jurisdiction and possible action of the Federal Government. In that address I assembled from the official records the statistics and facts as to what had been done in this behalf in the administration of my predecessor and in my own, and indicated the legislative measures which I believed to be wise in order to secure the best use, in the public interest, of what remains of our National domain. There was in this address a very full discussion of the reasons which led me to the conclusions stated. For the purpose of saving in an official record a comprehensive résumé of the statistics and facts gathered with some difficulty in that address, and to avoid their repetition in the body of this message, I venture to make the address an accompanying appendix.¹ The statistics are corrected to November 15th last.

SPECIFIC RECOMMENDATIONS.

For the reasons stated in the conservation address, I recommend:

First, that the limitation now imposed upon the Executive which forbids his reserving more forest lands in Oregon, Washington, Idaho, Montana, Colorado, and Wyoming, be repealed.

Second, that the coal deposits of the Government be leased after advertisement inviting competitive bids, for terms not exceeding fifty years, with a minimum rental and royalties upon the coal mined, to be readjusted every ten or twelve years, and with conditions as to maintenance which will secure proper mining, and as to assignment which will prevent combinations to monopolize control

¹Not printed.

of the coal in any one district or market. I do not think that coal measures under 2,500 acres of surface would be too large an amount to lease to any one lessee.

The Secretary of the Interior thinks there are difficulties in the way of leasing public coal lands, which objections he has set forth in his report, the force of which I freely concede. I entirely approved his stating at length in his report the objections in order that the whole subject may be presented to Congress, but after a full consideration I favor a leasing system and recommend it.

Third, that the law should provide the same separation in respect to government phosphate lands of surface and mineral rights that now obtains in coal lands and that power to lease such lands upon terms and limitations similar to those above recommended for coal leases, with an added condition enabling the Government to regulate, and if need be to prohibit, the export to foreign countries of the product.

Fourth, that the law should allow a prospector for oil or gas to have the right to prospect for two years over a certain tract of government land, the right to be evidenced by a license for which he shall pay a small sum; and that upon discovery, a lease may be granted upon terms securing a minimum rental and proper royalties to the Government, and also the conduct of the oil or gas well in accord with the best method for husbanding the supply of oil in the district. The period of the leases should not be as long as those of coal, but they should contain similar provisions as to assignment to prevent monopolistic combinations.

Fifth, that water-power sites be directly leased by the Federal Government, after advertisement and bidding, for not exceeding fifty years upon a proper rental and with a condition fixing rates charged to the public for units of electric power, both rental and rates to be readjusted equitably every ten years by arbitration or otherwise, with suitable provisions against assignment to prevent monopolistic combinations. Or, that the law shall provide that upon application made by the authorities of the State where the water-power site is situated, it may be patented to the State on condition that the State shall dispose of it under terms like those just described, and shall enforce those terms, or upon failure to comply with the condition the water-power site and all the plant and improvement on the site shall be forfeited and revert to the United States, the President being given the power to declare the forfeiture and to direct legal proceedings for its enforcement. Either of these methods would, I think, accomplish the proper public purpose in respect to water-power sites, but one or the other should be promptly adopted.

NECESSITY FOR PROMPT ACTION.

I earnestly urge upon Congress that at this session general conservation legislation of the character indicated be adopted. At its last session this Congress took most useful and proper steps in the cause of conservation by allowing the Executive, through withdrawals, to suspend the action of the existing laws in respect to much of the public domain. I have not thought that the danger of disposing of coal lands in the United States under the present laws in large quantities was so great as to call for their withdrawal, because under the present provisions it is reasonably certain that the Government will receive the real value of the land. But, in respect to oil lands, or phosphate lands, and of gas lands in the United States, and in respect to coal lands in Alaska, I have exercised the full power of withdrawal with the hope that the action of Congress would follow promptly and prevent that tying up of the resources of the country in the western and less settled portion and in Alaska, which means stagnation and retrogression.

The question of conservation is not a partisan one, and I sincerely hope that even in the short time of the present session consideration may be given to those questions which have now been much discussed, and that action may be taken upon them.

ALASKA.

With reference to the government of Alaska, I have nothing to add to the recommendations I made in my last message on the subject. I am convinced that the migratory character of the population, its unequal distribution, and its smallness of number, which the new census shows to be about 50,000, in relation to the enormous expanse of the territory, make it altogether impracticable to give to those people who are in Alaska to-day and may not be there a year hence, the power to elect a legislature to govern an immense territory to which they have a relation so little permanent. It is far better for the development of the territory that it be committed to a commission to be appointed by the Executive, with limited legislative powers sufficiently broad to meet the local needs, than to continue the present insufficient government with few remedial powers, or to make a popular government where there is not proper foundation upon which to rest it.

The suggestion that the appointment of a commission will lead to the control of the government by corporate or selfish and exploiting interests has not the slightest foundation in fact. Such a government worked well in the Philippines, and would work well in Alaska, and those who are really interested in the proper development of that territory for the benefit of the people who live in it

and the benefit of the people of the United States, who own it, should support the institution of such a government.

ALASKAN RAILWAYS.

I have been asked to recommend that the credit of the Government be extended to aid the construction of railroads in Alaska. I am not ready now to do so. A great many millions of dollars have already been expended in the construction of at least two railroads, and if laws be passed providing for the proper development of the resources of Alaska, especially for the opening up of the coal lands, I believe that the capital already invested will induce the investment of more capital, sufficient to complete the railroads building, and to furnish cheap coal not only to Alaska but to the whole Pacific coast. The passage of a law permitting the leasing of government coal lands in Alaska after public competition, and the appointment of a commission for the government of the territory, with enabling powers to meet the local needs, will lead to an improvement in Alaska and the development of her resources that is likely to surprise the country.

NATIONAL PARKS.

Our national parks have become so extensive and involve so much detail of action in their control that it seems to me there ought to be legislation creating a bureau for their care and control. The greatest natural wonder of this country and the surrounding territory should be included in another national park. I refer to the Grand Canyon of the Colorado.

PENSIONS.

The uniform policy of the Government in the matter of granting pensions to those gallant and devoted men who fought to save the life of the Nation in the perilous days of the great Civil War, has always been of the most liberal character. Those men are now rapidly passing away. The best obtainable official statistics show that they are dying at the rate of something over three thousand a month, and, in view of their advancing years, this rate must inevitably, in proportion, rapidly increase. To the man who risked everything on the field of battle to save the Nation in the hour of its direst need, we owe a debt which has not been and should not be computed in a begrudging or parsimonious spirit. But while we should be actuated by this spirit to the soldier himself, care should be exercised not to go to absurd lengths, or distribute the bounty of the Government to classes of persons who may, at this late day, from a mere mercenary motive, seek to obtain some legal

relation with an old veteran now tottering on the brink of the grave. The true spirit of the pension laws is to be found in the noble sentiments expressed by Mr. Lincoln in his last inaugural address, wherein, in speaking of the Nation's duty to its soldiers when the struggle should be over, he said we should "care for him who shall have borne the battle, and for his widow and orphans."

DEPARTMENT OF AGRICULTURE.

VALUE OF THIS YEAR'S CROPS.

The report of the Secretary of Agriculture invites attention to the stupendous value of the agricultural products of this country, amounting in all to \$8,926,000,000 for this year. This amount is larger than that of 1909 by \$305,000,000. The existence of such a crop indicates a good prospect for business throughout the country. A notable change for the better is commented upon by the Secretary in the fact that the South, especially in those regions where the boll weevil has interfered with the growth of cotton, has given more attention to the cultivation of corn and other cereals, so that there is a greater diversification of crops in the South than ever before—and all to the great advantage of that section.

DEPARTMENT ACTIVITIES.

The report contains a most interesting account of the activities of the Department in its various bureaus, showing how closely the agricultural progress in this country is following along the lines of improvement recommended by the Department through its publications and the results of its experiment stations in every State, and by the instructions given through the agricultural schools aided by the Federal Government and following the general curriculum urged by the head and bureau chiefs of the Department.

The activities of the Department have been greatly increased by the enactment of recent legislation, by the pure-food act, the meat-inspection act, the cattle-transportation act, and the act concerning the interstate shipment of game. This department is one of those the scope of whose action is constantly widening, and therefore it is impossible under existing legislation to reduce the cost and their estimates below those of preceding years.

FARMERS' INCOME AND COST OF LIVING.

An interesting review of the results of an examination made by the Department into statistics and prices, shows that on the average since 1891, farm products have increased in value 72 per cent while the things which the farmer buys for use have increased but 12 per

cent, an indication that present conditions are favorable to the farming community.

FOREST SERVICE.

I have already referred to the forests of the United States and their extent, and have urged, as I do again, the removal of the limitation upon the power of the Executive to reserve other tracts of land in six Western States in which withdrawal for this purpose is now forbidden. The Secretary of Agriculture gives a very full description of the disastrous fires that occurred during the last summer in the national forests. A drought more intense than any recorded in the history of the West had introduced a condition into the forests which made fires almost inevitable, and locomotive sparks, negligent campers, and in some cases incendiaries furnished the needed immediate cause. At one time the fires were so extended that they covered a range of a hundred miles, and the Secretary estimates that standing timber of the value of 25 millions of dollars was destroyed. Seventy-six persons in the employ of the Forest Service were killed and many more injured, and I regret to say that there is no provision in the law by which the expenses for their hospital treatment or of their interment could be met out of public funds. The Red Cross contributed a thousand dollars, and the remainder of the necessary expenses was made up by private contribution, chiefly from the force of the Forest Service and its officials. I recommend that suitable legislation be adopted to enable the Secretary of Agriculture to meet the moral obligations of the Government in this respect.

APPROPRIATION FOR FIRE FIGHTING.

The specific fund for fighting fires was only about \$135,000, but there existed discretion in the Secretary in case of an emergency to apply other funds in his control to this purpose, and he did so to the extent of nearly a million of dollars, which will involve the presentation of a deficiency estimate for the current fiscal year of over \$900,000. The damage done was not therefore due to the lack of an appropriation by Congress available to meet the emergency, but the difficulty of fighting it lay in the remote points where the fires began and where it was impossible with the roads and trails as they now exist promptly to reach them. Proper protection necessitates, as the Secretary points out, the expenditure of a good deal more money in the development of roads and trails in the forests, the establishment of lookout stations, and telephone connection between them and places where assistance can be secured.

REFORESTATION.

The amount of reforestation shown in the report of the Forest Service—only about 15,000 acres as compared with the 150 millions of acres of national forests—seems small, and I am glad to note that in this regard the Secretary of Agriculture and the chief of the Forest Service are looking forward to far greater activity in the use of available Government land for this purpose. Progress has been made in learning by experiment the best methods of reforesting. Congress is appealed to now by the Secretary of Agriculture to make the appropriations needed for enlarging the usefulness of the Forest Service in this regard. I hope that Congress will approve and adopt the estimate of the Secretary for this purpose.

DEPARTMENT OF COMMERCE AND LABOR.

The Secretary of the Department of Commerce and Labor has had under his immediate supervision the application of the merit system of promotion to a large number of employees, and his discussion of this method of promotions based on actual experience, I commend to the attention of Congress.

THE CENSUS BUREAU.

The taking of the census has proceeded with promptness and efficiency. The Secretary believes, and I concur, that it will be more thorough and accurate than any census which has heretofore been taken, but it is not perfect. The motive that prompts men with a false civic pride to induce the padding of census returns in order to increase the population of a particular city has been strong enough to lead to fraud in respect to a few cities in this country, and I have directed the Attorney-General to proceed with all the vigor possible against those who are responsible for these frauds. They have been discovered and they will not interfere with the accuracy of the census, but it is of the highest importance that official inquiry of this sort should not be embarrassed by fraudulent conspiracies in some private or local interest.

BUREAU OF LIGHT-HOUSES.

The reorganization of the Light-House Board has effected a very considerable saving in the administration, and the estimates for that service for the present year are \$428,000 less than for the preceding year. In addition, three tenders, for which appropriations were made, are not being built because they are not at present needed for the service. The Secretary is now asking for a large sum for the addition of lights and other aids to the commerce of the seas, including a number in Alaska. The trade along that coast is becom-

ing so important that I respectfully urge the necessity for following his recommendation.

BUREAU OF CORPORATIONS.

The Commissioner of Corporations has just completed the first part of a report on the lumber industry in the United States. This part does not find the existence of a trust or combination in the manufacture of lumber. The Commissioner does find, however, a condition in the ownership of the standing timber of the United States, other than the Government timber, that calls for serious attention. The direct investigation made by the Commissioner covered an area which contains 80 per cent of the privately owned timber of the country. His report shows that one-half of the timber in this area is owned by 200 individuals and corporations; that 14 per cent is owned by 3 corporations, and that there is very extensive interownership of stock, as well as other circumstances, all pointing to friendly relations among those who own a majority of this timber, a relationship which might lead to a combination for the maintenance of a price that would be very detrimental to the public interest, and would create the necessity of removing all tariff obstacles to the free importations of lumber from other countries.

BUREAU OF FISHERIES.

I am glad to note in the Secretary's report the satisfactory progress which is being made in respect to the preservation of the seals of the Pribiloff Islands. Very active steps are being taken by the Department of State to secure an arrangement which shall protect the Pribiloff herd from the losses due to pelagic sealing. Meantime the Government has secured seal pelts of the bachelor seals (the killing of which does not interfere with the maintenance of the herd), from the sale of which next month it is expected to realize about \$450,000, a sum largely in excess of the rental paid by the lessee of the Government under the previous contract.

COAST AND GEODETIC SURVEY.

The Coast and Geodetic Survey has been engaged in surveying the coasts of the Philippine archipelago. This is a heavy work, because of the extended character of the coast line in those Islands, but I am glad to note that about half of the needed survey has been completed. So large a part of the coast line of the archipelago has been unsurveyed as to make navigation in the neighborhood of a number of the islands, and especially on the east side, particularly dangerous.

BUREAU OF LABOR.

The Commissioner of Labor has been actively engaged in composing the differences between employers and employees engaged in interstate transportation, under the Erdman Act, jointly with the Chairman of the Interstate Commerce Commission. I can not speak in too high terms of the success of these two officers in conciliation and settlement of controversies which, but for their interposition, would have resulted disastrously to all interests.

TAX ON PHOSPHOROUS MATCHES.

I invite attention to the very serious injury caused to all those who are engaged in the manufacture of phosphorous matches. The diseases incident to this are frightful, and as matches can be made from other materials entirely innocuous, I believe that the injurious manufacture could be discouraged and ought to be discouraged by the imposition of a heavy federal tax. I recommend the adoption of this method of stamping out a very serious abuse.

EIGHT-HOUR LAW.

Since 1868 it has been the declared purpose of this Government to favor the movement for an eight-hour day by a provision of law that none of the employees employed by or *on behalf* of the Government should work longer than eight hours in every twenty-four. The first declaration of this view was not accompanied with any penal clause or with any provision for its enforcement, and, though President Grant by a proclamation twice attempted to give it his sanction and to require the officers of the Government to carry it out, the purpose of the framers of the law was ultimately defeated by a decision of the Supreme Court holding that the statute as drawn was merely a direction of the Government to its agents and did not invalidate a contract made in behalf of the Government which provided in the contract for labor for a day of longer hours than eight. Thereafter, in 1892, the present eight-hour law was passed, which provides that the services and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor on any of the public works of the United States and of the said District of Columbia is hereby restricted to eight hours in any one calendar day. This law has been construed to limit the application of the requirement to those who are directly employed by the Government or to those who are employed upon public works situate upon land owned by the United States. This construction prevented its application to government battle ships and other vessels built in private shipyards and to heavy guns and armor plate contracted for and made at private establishments.

PENDING BILL.

The proposed act provides that no laborer or mechanic doing any part of the work contemplated by a contract with the United States in the employ of the contractor or any subcontractor shall be required or permitted to work more than eight hours a day in any one calendar day.

It seems to me from the past history that the Government has been committed to a policy of encouraging the limitation of the day's work to eight hours in all works of construction initiated by itself, and it seems to me illogical to maintain a difference between government work done on government soil and government work done in a private establishment, when the work is of such large dimensions and involves the expenditure of much labor for a considerable period, so that the private manufacturer may adjust himself and his establishment to the special terms of employment that he must make with his workmen for this particular job. To require, however, that every small contract of manufacture entered into by the Government should be carried out by the contractor with men working at eight hours would be to impose an intolerable burden upon the Government by limiting its sources of supply and excluding altogether the great majority of those who would otherwise compete for its business.

The proposed act recognizes this in the exceptions which it makes to contracts

for transportation by land or water, for the transmission of intelligence, and for such materials or articles as may usually be bought in the open market whether made to conform to particular specifications or not, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not.

SUBSTITUTE FOR PENDING BILL.

I recommend that instead of enacting the proposed bill, the meaning of which is not clear and definite and might be given a construction embarrassing to the public interest, the present act be enlarged by providing that public works shall be construed to include not only buildings and work upon public ground, but also ships, armor, and large guns when manufactured in private yards or factories.

PROVISION FOR SUSPENSION IN EMERGENCIES BY PRESIDENT.

One of the great difficulties in enforcing this eight-hour law is that its application under certain emergencies becomes exceedingly oppressive and there is a great temptation to subordinate officials to evade it. I think that it would be wiser to allow the President, by Executive order, to declare an emergency in special instances in which the limitation might not apply and, in such cases, to permit the payment by the Government of extra compensation for the time

worked each day in excess of eight hours. I may add that my suggestions in respect to this legislation have the full concurrence of the Commissioner of Labor.

WORKMEN'S COMPENSATION.

In view of the keen, widespread interest now felt in the United States in a system of compensation for industrial accidents to supplant our present thoroughly unsatisfactory system of employers' liability (a subject the importance of which Congress has already recognized by the appointment of a commission), I recommend that the International Congress on Industrial Insurance be invited to hold its meeting in 1913 in Washington, and that an appropriation of \$10,000 be made to cover the necessary expenses of organizing and carrying on the meeting.

BUREAU OF IMMIGRATION.

DISTRIBUTING IMMIGRANTS.

The immigration into this country is increasing each year. A large part of it comes through the immigrant station at Ellis Island in the City of New York. An examination of the station and the methods pursued satisfies me that a difficult task is there performed by the commissioner and his force with common sense, the strictest fairness, and with the most earnest desire to enforce the law equitably and mercifully. It has been proposed to enlarge the accommodations so as to allow more of the immigrants to come by that port. I do not think it wise policy to do this. I have no objection to—on the contrary, I recommend—the construction of additional buildings for the purpose of facilitating a closer and more careful examination of each immigrant as he comes in, but I deprecate the enlargement of the buildings and of the force for the purpose of permitting the examination of more immigrants per day than are now examined. If it is understood that no more immigrants can be taken in at New York than are now taken in, and the steamship companies thus are given a reason and a motive for transferring immigrants to other ports, we can be confident that they will be better distributed through the country and that there will not be that congestion in the City of New York which does not make for the better condition of the immigrant or increase his usefulness as a new member of this community. Everything which tends to send the immigrants west and south into rural life helps the country.

AMENDMENTS RECOMMENDED.

I concur with the Secretary in his recommendations as to the amendments to the immigration law in increasing the fine against the companies for violation of the regulations, and in giving greater power to the commissioner to enforce more care on the part

of the steamship companies in accepting immigrants. The recommendation of the Secretary, in which he urges that the law may be amended so as to discourage the separation of families, is, I think, a good one.

MISCELLANEOUS SUBJECTS NOT INCLUDED IN DEPARTMENTS.

BUREAU OF HEALTH.

In my message of last year I recommended the creation of a Bureau of Health, in which should be embraced all those Government agencies outside of the War and Navy Departments which are now directed toward the preservation of public health or exercise functions germane to that subject. I renew this recommendation. I greatly regret that the agitation in favor of this bureau has aroused a counteragitation against its creation, on the ground that the establishment of such a bureau is to be in the interest of a particular school of medicine. It seems to me that this assumption is wholly unwarranted, and that those responsible for the Government can be trusted to secure in the personnel of the bureau the appointment of representatives of all recognized schools of medicine, and in the management of the bureau entire freedom from narrow prejudice in this regard.

THE IMPERIAL VALLEY PROJECT.

By an act passed by Congress the President was authorized to expend a million dollars to construct the needed work to prevent injury to the lands of the Imperial Valley from the overflow of the Colorado River. I appointed a competent engineer to examine the locality and to report a plan for construction. He has done so. In order to complete the work it is necessary to secure the consent of Mexico, for part of the work must be constructed in Mexican territory. Negotiations looking to the securing of such authority are quite near success. The Southern Pacific Railroad Company proposes to assist us in the work by lending equipment and by the transportation of material at cost price, and it is hoped that the work may be completed before any danger shall arise from the spring floods in the river. The work is being done under the supervision of the Secretary of the Interior and his consulting engineer, General Marshall, late Chief of Engineers, now retired.

This leads me to invite the attention of Congress to the claim made by the Southern Pacific Railroad Company for an amount expended in a similar work of relief called for by a flood and great emergency. This work, as I am informed, was undertaken at the request of my predecessor and under promise to reimburse the railroad company. It seems to me the equity of this claim is manifest, and the only

question involved is the reasonable value of the work done. I recommend the payment of the claim in a sum found to be just.

DISTRICT OF COLUMBIA.

CHARACTER OF GOVERNMENT.

The government of the District of Columbia is a good government. The police force, while perhaps it might be given, or acquire, more military discipline in bearing and appearance, is nevertheless an efficient body of men, free from graft, and discharges its important duties in this capital of the nation effectively. The parks and the streets of the city and the District are generally kept clean and in excellent condition. The Commissioners of the District have its affairs well in hand, and, while not extravagant, are constantly looking to those municipal improvements that are expensive but that must be made in a modern growing city like Washington. While all this is true, nevertheless the fact that Washington is governed by Congress, and that the citizens are not responsible and have no direct control through popular election in District matters, properly subjects the government to inquiry and criticism by its citizens, manifested through the public press and otherwise; such criticism should command the careful attention of Congress. Washington is the capital of the nation and its maintenance as a great and beautiful city under national control, every lover of his country has much at heart; and it should present in every way a model in respect of economy of expenditure, of sanitation, of tenement reform, of thorough public instruction, of the proper regulation of public utilities, of sensible and extended charities, of the proper care of criminals and of youth needing reform, of healthful playgrounds and opportunity for popular recreation, and of a beautiful system of parks. I am glad to think that progress is being made in all these directions, but I venture to point out certain specific improvements toward these ends which Congress in its wisdom might adopt. Speaking, generally, I think there ought to be more concentration of authority in respect to the accomplishment of some of these purposes with more economy of expenditure.

PUBLIC PARKS.

Attention is invited to the peculiar situation existing in regard to the parks of Washington. The park system proper, comprising some 343 different areas, is under the Office of Public Buildings and Grounds, which, however, has nothing to do with the control of Rock Creek Park, the Zoological Park, the grounds of the Department of Agriculture, the Botanic Garden, the grounds of the Capitol, and other public grounds which are regularly open to the public and ought to be part of the park system. Exclusive of the grounds

of the Soldiers' Home and of Washington Barracks, the public grounds used as parks in the District of Columbia comprise over 3,100 acres, under ten different controlling officials or bodies. This division of jurisdiction is most unfortunate.

Large sums of money are spent yearly in beautifying and keeping in good condition these parks and the grounds connected with Government buildings and institutions. The work done on all of them is of the same general character—work for which the Office of Public Buildings and Grounds has been provided by Congress with a special organization and equipment, which are lacking for the grounds not under that office. There can be no doubt that if all work of care and improvement upon the grounds belonging to the United States in the District of Columbia were put, as far as possible, under one responsible head, the result would be not only greater efficiency and economy in the work itself, but greater harmony in the development of the public parks and gardens of the city.

Congress at its last session provided for two more parks, called the Meridian Hill and Montrose parks, and the District Commissioners have also included in their estimates a sum to be used for the acquisition of much needed park land adjoining the Zoological Park, known as the Klingle Ford tract. The expense of these three parks, included in the estimates of the Commissioners, aggregates \$900,000. I think it would lead to economy if the improvement and care of all these parks and other public grounds above described should be transferred to the Office of Public Buildings and Grounds, which has an equipment well and economically adapted to carrying out the public purpose in respect to improvements of this kind.

To prevent encroachments upon the park area it is recommended that the erection of any permanent structure on any lands in the District of Columbia belonging to the United States be prohibited except by specific authority of Congress.

THE DISTRICT OF COLUMBIA IN VIRGINIA.

I have already in previous communications to Congress referred to the importance of acquiring for the District of Columbia at least a part of the territory on the other side of the Potomac in Virginia which was originally granted for the District by the State of Virginia, and then was retroceded by act of Congress in 1846. It is very evident from conferences that I have had with the Senators and Representatives from Virginia that there is no hope of a regranting by the State of the land thus given back; and I am frank to say that in so far as the tract includes the town of Alexandria and land remote from the Potomac River there would be no particular advantage in bringing that within national control. But the land which

lies along the Potomac River above the railroad bridge and across the Potomac, including Arlington Cemetery, Fort Myer, the Government experiment farm, the village of Rosslyn, and the Palisades of the Potomac, reaching to where the old District line intersects the river, is very sparsely settled and could be admirably utilized for increasing the system of the parks of Washington. It has been suggested to me by the same Virginia Senators and Representatives that if the Government were to acquire for a government park the land above described, which is not of very great value, the present law of Virginia would itself work the creation of federal jurisdiction over it, and if that were not complete enough, the legislature of Virginia would in all probability so enlarge the jurisdiction as to enable Congress to include it within the control of the government of the District of Columbia and actually make it a part of Washington. I earnestly recommend that steps be taken to carry out this plan.

PUBLIC UTILITIES.

There are a sufficient number of corporations enjoying the use of public utilities in the District of Columbia to justify and require the enactment of a law providing for their supervision and regulation in the public interest consistent with the vested rights secured to them by their charters. A part of these corporations, to wit, the street railways, have been put under the control of the Interstate Commerce Commission, but that Commission recommends that the power be taken from it, and intimates broadly that its other and more important duties make it impossible for it to give the requisite supervision. It seems to me wise to place this general power of supervision and regulation in the District Commissioners. It is said that their present duties are now absorbing and would prevent the proper discharge by them of these new functions, but their present jurisdiction brings them so closely and frequently in contact with these corporations and makes them to know in such detail how the corporations are discharging their duties under the law and how they are serving the public interest that the Commissioners are peculiarly fitted to do this work, and I hope that Congress will impose it upon them by intrusting them with powers in respect to such corporations similar to those of the public utilities commission of New York City or similar boards in Massachusetts.

SCHOOL SYSTEM.

I do not think the present control of the school system of Washington commends itself as the most efficient and economical and thorough instrument for the carrying on of public instruction. The expenses of the schools of Washington as compared with those of other cities similarly situated are shown by the following table.

Comparative cost of public schools in Washington and elsewhere.

[Prepared by W. V. Judson, engineer.]

A. City.	B. Popula- tion esti- mate of Census Bureau as of June 1, 1908. ^a	C Total cost of schools.		D. Num- ber of days schools actu- ally in ses- sion. ^b	E. Aggregate number of days' attendance of all pupils in two public day schools.	F. Num- ber of teach- ers and super- vising offi- cers.	G. Num- ber of pupils instruct- ed one day per teacher.	H. Cost for salaries— officers and teachers.	I. Cost per capita per annum.	J. Total cost per pupil per day of in- struc- tion. and teachers.	K. Number of pupils instruct- ed one day per teacher. each \$1 spent in sala- ries for officers and teachers.	L. Average annual salary— for officers, each \$1 etc. (in- cluding of in- struc- tion and libra- rians).
		Year ending ^a —	Amount. ^a									
Washington.....	\$325,000	Senate appropriation bill in conference. ^d	\$2,998,960	1764	\$7,850,746	\$1,775	4,423.0	\$1,786,150	\$9,2270	\$0,352	4,395	\$1,006.28
Baltimore.....	568,571	December 31, 1908.....	1,968,894	196	10,878,196	1,788	6,084.0	1,321,033	3,4940	.1810	8,234	738.83
Pittsburg.....	547,523	Jan. 31, 1909: June 1, 1909.....	3,339,079	200	11,822,400	1,821	6,492.0	1,663,934	6,0980	.282	7,105	913.74
Cleveland.....	491,401	Aug. 31, 1908.....	2,935,760	184	10,366,204	2,091	6,957.0	1,713,191	5,9740	.283	6,051	819.66
Buffalo.....	391,629	June 30, 1909.....	1,869,348	192	9,072,000	1,478	6,138.0	1,147,356	4,7730	.206	7,906	776.28
San Francisco.....	360,290	do.....	2,710,025	199	6,618,654	1,439	6,185.0	1,342,596	7,5220	.4090	4,929	1,254.76
Detroit.....	376,174	do.....	2,370,671	194	8,820,050	1,070	5,781.0	1,308,050	6,3020	.2850	6,356	909.00
Cincinnati.....	345,230	Aug. 31, 1908.....	2,272,705	200	7,138,400	1,116	6,396.0	1,039,280	6,5830	.3180	6,860	931.25
Milwaukee.....	327,873	Dec. 31, 1908.....	1,631,007	197	7,359,736	1,069	6,884.0	1,008,245	4,9740	.2210	7,300	943.16
New Orleans.....	323,157	do.....	1,232,632	172	4,643,312	1,023	4,539.0	662,797	3,8140	.2650	7,050	647.00
Newark.....	302,324	June 30, 1909.....	2,561,415	192	8,188,160	1,279	6,402.0	1,460,516	8,4720	.3130	5,606	1,141.00
Minneapolis.....	297,527	Dec. 31, 1908.....	1,930,505	183	6,999,319	1,150	6,086.0	1,052,073	6,4890	.2760	6,652	914.84
Jersey City.....	248,458	Nov. 30, 1908.....	1,245,094	188	5,502,410	1,777	7,081.0	745,975	5,0110	.2260	7,378	960.00
Louisville.....	233,069	June 30, 1909.....	1,844,012	192	4,416,384	726	6,083.0	581,619	3,6210	.1910	7,593	861.12

^a Information furnished by Bureau of Census April 29, 1910.

^b Annual Report, Commissioner of Education for fiscal year 1909, vol. 2, pp. 647-667.

^c Unofficial estimate for June 1, 1910.

^d At date of compilation of this table, May 5, 1910, Senate appropriation bill in conference.

^e Annual Report, Commissioner of Education for fiscal year 1909, p. 648, gives this for 1907-8 as \$7,606,575. This figure has been increased by 3.21 per cent to correspond

with year 1910-11. Annual Report, Board of Education, District of Columbia, for 1909, p. 21, gives 1.07 per cent as increase of average enrollment for one year.

^f From the number of teachers, 2,309, stated by Commissioner of Education, 106 night-school teachers and 11 teachers of the deaf have been deducted. (Annual Report, Cleveland Board of Education, August 31, 1908.)

^g Census Bureau, 1907.
^h As result of San Francisco earthquake over \$1,000,000 spent in new construction and included in total cost for year, making it unduly large.

The cost of education in the District of Columbia is thus seen to be excessive as compared with the cost in other cities of similar size, and it is not apparent that the results are in general more satisfactory. The average cost per pupil per day in Washington is about 38 cents, while the average cost in 13 other American cities fairly comparable with Washington in population and standard of education is about 25.5 cents. For each dollar spent in salaries of school teachers and officers in the District about 4.4 days of instruction per pupil are given, while in the 13 cities above referred to each dollar expended for salaries affords on the average 6.8 days of instruction. For the current fiscal year the estimates of the Board of Education amounted to about three-quarters of the entire revenue locally collected for District purposes.

If I may say so, there seems to be a lack of definite plan in the expansion of the school system and the erection of new buildings and of proper economy in the use of these buildings that indicates the necessity for the concentration of control. All plans for improvement and expansion in the school system are with the School Board, while the limitation of expenses is with the District Commissioners. I think it would be much better to put complete control and responsibility in the District Commissioners, and then provide a board of school visitors, to be appointed by the Supreme Court of the District or by the President, from the different school districts of Washington, who, representing local needs, shall meet and make recommendations to the Commissioners and to the Superintendent of Education—an educator of ability and experience who should be an appointee of and responsible to the District Commissioners.

PERMANENT IMPROVEMENTS.

Among other items for permanent improvements appearing in the District estimates for 1912 is one designed to substitute for Willow Tree Alley, notorious in the records of the Police and Health Departments, a playground with a building containing baths, a gymnasium, and other helpful features, and I hope Congress will approve this estimate. Fair as Washington seems with her beautiful streets and shade trees, and free, as the expanse of territory which she occupies would seem to make her, from slums and insanitary congestion of population, there are centers in the interior of squares where the very poor, and the criminal classes as well, huddle together in filth and noisome surroundings, and it is of primary importance that these nuclei of disease and suffering and vice should be removed, and that there should be substituted for them small parks as breathing spaces, and model tenements having sufficient air space and meeting other hygienic requirements. The estimate for the reform of Willow Tree

Alley, the worst of these places in the city, is the beginning of a movement that ought to attract the earnest attention and support of Congress, for Congress can not escape its responsibility for the existence of these human pest holes.

The estimates for the District of Columbia for the fiscal year 1912 provide for the repayment to the United States of \$616,000, one-fourth of the floating debt that will remain on June 30, 1911. The bonded debt will be reduced in 1912 by about the same amount.

The District of Columbia is now in an excellent financial condition. Its own share of indebtedness will, it is estimated, be less than \$6,000,000 on June 30, 1912, as compared with about \$9,000,000 on June 30, 1909.

The bonded debt, owed half and half by the United States and the District, will be extinguished by 1924, and the floating debt of the District probably long before that time.

The revenues have doubled in the last ten years, while the population during the same period has increased but 18.78 per cent. It is believed that, if due economy be practiced, the District can soon emerge from debt, even while financing its permanent improvements with reasonable rapidity from current revenues.

To this end, I recommend the enactment into law of a bill now before Congress—and known as the Judson Bill—which will insure the gradual extinguishment of the District's debt, while at the same time requiring that the many permanent improvements needed to complete a fitting capital city shall be carried on from year to year and at a proper rate of progress with funds derived from the rapidly increasing revenues.

FREEDMEN'S BANK.

I renew my recommendation that the claims of the depositors in the Freedmen's Bank be recognized and paid by the passage of the pending bill on that subject.

NEGRO EXPOSITION.

I also renew my recommendation that steps be taken looking to the holding of a Negro exposition in celebration of the fiftieth anniversary of the issuing by Mr. Lincoln of the Emancipation Proclamation.

CIVIL SERVICE COMMISSION.

The Civil Service Commission has continued its useful duties during the year. The necessity for the maintenance of the provisions of the civil service law was never greater than to-day. Officers responsible for the policy of the Administration, and

their immediate personal assistants or deputies, should not be included within the classified service; but in my judgment, public opinion has advanced to the point where it would support a bill providing for a secure tenure during efficiency for all purely administrative officials. I entertain the profound conviction that it would greatly aid the cause of efficient and economical government, and of better politics if Congress could enact a bill providing that the Executive shall have the power to include in the classified service all local offices under the Treasury Department, the Department of Justice, the Post-Office Department, the Interior Department, and the Department of Commerce and Labor, appointments to which now require the confirmation of the Senate, and that upon such classification the advice and consent of the Senate shall cease to be required in such appointments. By their certainty of tenure, dependent on good service, and by their freedom from the necessity for political activity, these local officers would be induced to become more efficient public servants.

The civil service law is an attempt to solve the problem of the proper selection of those who enter the service. A better system under that law for promotions ought to be devised, but, given the selected employee, there remains still the question of promoting his efficiency and his usefulness to the Government, and that can be brought about only by a careful comparison of unit work done by the individual and a pointing out of the necessity for improvement in this regard where improvement is possible.

INQUIRY INTO ECONOMY AND EFFICIENCY.

The increase in the activities and in the annual expenditures of the Federal Government has been so rapid and so great that the time has come to check the expansion of government activities in new directions until we have tested the economy and efficiency with which the Government of to-day is being carried on. The responsibility rests upon the head of the Administration. He is held accountable by the public, and properly so. Despite the unselfish and patriotic efforts of the heads of departments and others charged with responsibility of government, there has grown up in this country a conviction that the expenses of government are too great. The fundamental reason for the existence undetected of waste, duplication, and bad management is the lack of prompt, accurate information. The president of a private corporation doing so vast a business as the Government transacts would, through competent specialists, maintain the closest scrutiny on the comparative efficiency and the comparative costs in each division or department of the business. He would know precisely what the duties

and the activities of each bureau or division are in order to prevent overlapping. No adequate machinery at present exists for supplying the President of the United States with such information respecting the business for which he is responsible. For the first time in the history of the Government, Congress in the last session supplied this need and made an appropriation to enable the President to inquire into the economy and efficiency of the executive departments, and I am now assembling an organization for that purpose.

At the outset I find comparison between departments and bureaus impossible for the reason that in no two departments are the estimates and expenditures displayed and classified alike. The first step is to reduce all to a common standard for classification and judgment, and this work is now being done. When it is completed, the foundation will be laid for a businesslike national budget, and for such a just comparison of the economy and efficiency with which the several bureaus and divisions are conducted as will enable the President and the heads of Departments to detect waste, eliminate duplication, encourage the intelligent and effective civil servants whose efforts too often go unnoticed, and secure the public service at the lowest possible cost.

The Committees on Appropriations of Congress have diligently worked to reduce the expenses of government and have found their efforts often blocked by lack of accurate information containing a proper analysis of requirements and of actual and reasonable costs. The result of this inquiry should enable the Executive in his communications to Congress to give information to which Congress is entitled and which will enable it to promote economy.

My experience leads me to believe that while Government methods are much criticised, the bad results—if we do have bad results—are not due to a lack of zeal or willingness on the part of the civil servants. On the contrary, I believe that a fine spirit of willingness to work exists in the personnel, which, if properly encouraged, will produce results equal to those secured in the best managed private enterprises. In handling Government expenditure the aim is not profit—the aim is the maximum of public service at the minimum of cost. We wish to reduce the expenditures of the Government, and we wish to save money to enable the Government to go into some of the beneficial projects which we are debarred from taking up now because we ought not to increase our expenditures.

I have requested the head of each Department to appoint committees on economy and efficiency in order to secure full cooperation in the movement by the employees of the Government themselves.

At a later date I shall send to Congress a special message on this general subject.

I urge the continuance of the appropriation of \$100,000 requested for the fiscal year 1912.

CIVIL SERVICE RETIREMENT.

It is impossible to proceed far in such an investigation without perceiving the need of a suitable means of eliminating from the service the superannuated. This can be done in one of two ways, either by straight civil pension or by some form of contributory plan.

Careful study of experiments made by foreign governments shows that three serious objections to the civil pension payable out of the public treasury may be brought against it by the taxpayer, the administrative officer, and the civil employee, respectively. A civil pension is bound to become an enormous, continuous, and increasing tax on the public exchequer; it is demoralizing to the service since it makes difficult the dismissal of incompetent employees after they have partly earned their pension; and it is disadvantageous to the main body of employees themselves since it is always taken into account in fixing salaries and only the few who survive and remain in the service until pensionable age receive the value of their deferred pay. For this reason, after a half century of experience under a most liberal pension system, the civil servants of England succeeded, about a year ago, in having the system so modified as to make it virtually a contributory plan with provision for refund of their theoretical contributions.

The experience of England and other countries shows that neither can a contributory plan be successful, human nature being what it is, which does not make provision for the return of contributions, with interest, in case of death or resignation before pensionable age. Followed to its logical conclusion this means that the simplest and most independent solution of the problem for both employee and the Government is a compulsory savings arrangement, the employee to set aside from his salary a sum sufficient, with the help of a liberal rate of interest from the Government, to purchase an adequate annuity for him on retirement, this accumulation to be inalienably his and claimable if he leaves the service before reaching the retirement age or by his heirs in case of his death. This is the principle upon which the Gillett bill now pending is drawn.

The Gillett bill, however, goes further and provides that the Government shall contribute to the pension fund of those employees who are now so advanced in age that their personal contributions will not be sufficient to create their annuities before reaching the retirement age. In my judgment this provision should be amended so that the annuities of those employees shall be paid out of the

salaries appropriated for the positions vacated by retirement, and that the difference between the annuities thus granted and the salaries may be used for the employment of efficient clerks at the lower grades. If the bill can be thus amended I recommend its passage, as it will initiate a valuable system and ultimately result in a great saving in the public expenditures.

INTERSTATE COMMERCE COMMISSION.

There has not been time to test the benefit and utility of the amendments to the interstate commerce law contained in the act approved June 18, 1910. The law as enacted did not contain all the features which I recommended. It did not specifically denounce as unlawful the purchase by one of two parallel and competing roads of the stock of the other. Nor did it subject to the restraining influence of the Interstate Commerce Commission the power of corporations engaged in operating interstate railroads to issue new stock and bonds; nor did it authorize the making of temporary agreements between railroads, limited to thirty days, fixing the same rates for traffic between the same places.

I do not press the consideration of any of these objects upon Congress at this session. The object of the first provision is probably generally covered by the antitrust law. The second provision was in the act referred to the consideration of a commission to be appointed by the Executive and to report upon the matter to Congress. That commission has been appointed, and is engaged in the investigation and consideration of the question submitted under the law. It consists of President Arthur T. Hadley, of Yale University, as chairman; Frederick Strauss, Frederick N. Judson, Walter L. Fisher, and Prof. B. H. Meyer, with William E. S. Griswold as secretary.

The third proposal led to so much misconstruction of its object, as being that of weakening the effectiveness of the antitrust law, that I am not disposed to press it for further consideration. It was intended to permit railroad companies to avoid useless rate cutting by a mere temporary acquiescence in the same rates for the same service over competing railroads, with no obligation whatever to maintain those rates for any time.

SAFETY APPLIANCES AND PROVISIONS.

The protection of railroad employees from personal injury is a subject of the highest importance and demands continuing attention. There have been two measures pending in Congress, one for the supervision of boilers and the other for the enlargement of dangerous clearances. Certainly some measures ought to be adopted looking

to a prevention of accidents from these causes. It seems to me that with respect to boilers a bill might well be drawn requiring and enforcing by penalty a proper system of inspection by the railway companies themselves which would accomplish our purpose. The entire removal of outside clearances would be attended by such enormous expense that some other remedy must be adopted. By act of May 6, 1910, the Interstate Commerce Commission is authorized and directed to investigate accidents, to report their causes and its recommendations. I suggest that the Commission be requested to make a special report as to injuries from outside clearances and the best method of reducing them.

VALUATION OF RAILROADS.

The Interstate Commerce Commission has recommended appropriations for the purpose of enabling it to enter upon a valuation of all railroads. This has always been within the jurisdiction of the Commission, but the requisite funds have been wanting. Statistics of the value of each railroad would be valuable for many purposes, especially if we ultimately enact any limitations upon the power of the interstate railroads to issue stocks and bonds, as I hope we may. I think, therefore, that in order to permit a correct understanding of the facts, it would be wise to make a reasonable appropriation to enable the Interstate Commerce Commission to proceed with due dispatch to the valuation of all railroads. I have no doubt that railroad companies themselves can and will greatly facilitate this valuation and make it much less costly in time and money than has been supposed.

FRAUDULENT BILLS OF LADING.

Forged and fraudulent bills of lading purporting to be issued against cotton, some months since, resulted in losses of several millions of dollars to American and foreign banking and cotton interests. Foreign bankers then notified American bankers that, after October 31, 1910, they would not accept bills of exchange drawn against bills of lading for cotton issued by American railroad companies, unless American bankers would guarantee the integrity of the bills of lading. The American bankers rightly maintained that they were not justified in giving such guaranties, and that, if they did so, the United States would be the only country in the world whose bills were so discredited, and whose foreign trade was carried on under such guaranties.

The foreign bankers extended the time at which these guaranties were demanded until December 31, 1910, relying upon us for protection in the meantime, as the money which they furnish to move our cotton crop is of great value to this country.

For the protection of our own people and the preservation of our credit in foreign trade, I urge upon Congress the immediate enactment of a law under which one who, in good faith, advances money or credit upon a bill of lading issued by a common carrier upon an interstate or foreign shipment can hold the carrier liable for the value of the goods described in the bill at the valuation specified in the bill, at least to the extent of the advances made in reliance upon it. Such liability exists under the laws of many of the States. I see no objection to permitting two classes of bills of lading to be issued: (1) Those under which a carrier shall be absolutely liable, as above suggested, and (2) those with respect to which the carrier shall assume no liability except for the goods actually delivered to the agent issuing the bill. The carrier might be permitted to make a small separate specific charge in addition to the rate of transportation for such guaranteed bill, as an insurance premium against loss from the added risk, thus removing the principal objection which I understand is made by the railroad companies to the imposition of the liability suggested, viz, that the ordinary transportation rate would not compensate them for the liability assumed by the absolute guaranty of the accuracy of the bills of lading.

I further recommend that a punishment of fine and imprisonment be imposed upon railroad agents and shippers for fraud or misrepresentation in connection with the issue of bills of lading issued upon interstate and foreign shipments.

GENERAL CONCLUSION AS TO INTERSTATE COMMERCE AND ANTITRUST LAW.

Except as above, I do not recommend any amendment to the interstate-commerce law as it stands. I do not now recommend any amendment to the anti-trust law. In other words, it seems to me that the existing legislation with reference to the regulation of corporations and the restraint of their business has reached a point where we can stop for a while and witness the effect of the vigorous execution of the laws on the statute books in restraining the abuses which certainly did exist and which roused the public to demand reform. If this test develops a need for further legislation, well and good, but until then let us execute what we have. Due to the reform movements of the present decade, there has undoubtedly been a great improvement in business methods and standards. The great body of business men of this country, those who are responsible for its commercial development, now have an earnest desire to obey the law and to square their conduct of business to its requirements and limitations. These will doubtless be made clearer by the decisions of the Supreme Court in cases pending before it. It is in the interest

of all the people of the country that for the time being the activities of government, in addition to enforcing earnestly and impartially the existing laws, should be directed to economy of administration, to the enlargement of opportunities for foreign trade, to the conservation and improvement of our agricultural lands and our other natural resources, to the building up of home industries, and to the strengthening of confidence of capital in domestic investment.

WM. H. TAFT.

THE WHITE HOUSE,
December 6, 1910.

LIST OF PAPERS, WITH SUBJECTS OF CORRESPONDENCE.

No.	From and to whom.	Date.	Subject.	Page.
	Circular.....	1910. July 21	Expatriation. Refers to par. 2, sec. 2, act of Mar. 2, 1907, and says paragraph is not to be construed as retroactive.	1
	Do.....	July 26	Protection of native Americans residing abroad. Instruction as to procedure to be followed in issuing passports or registration certificates to persons claiming American citizenship.	1
	Do.....	Dec. 22	Expatriation. Refers to expatriation circular of Apr. 19, 1907, and transmits copy of opinion of Attorney General containing ruling as to meaning of par. 2, sec. 2 expatriation act of Mar. 2, 1907.	3

ARGENTINE REPUBLIC.

121	Mr. Wilson to Mr. Knox...	1909. Apr. 20	Cable concessions granted by the Argentine Republic. Reports proposal of an English company to construct a cable line from the Argentine to Europe.	61
	Mr. Portela to Mr. Knox...	June 15	Celebration of the first centennial of the independence of the Argentine Republic. Invites participation of United States.	4
	Mr. Wilson to Mr. Knox (telegram).	June 18	Cable concessions granted by the Argentine Republic. Says English cable proposition has been sent to Congress for approval.	61
	Mr. Wilson to Mr. Sherrill (telegram).	July 16	Same subject. Says it is presumed that cable contract is not infringement of treaty with United States.	61
30	Mr. Sherrill to Mr. Knox...	July 19	Same subject. Incloses note to foreign office relative to English proposal to lay cable.	62
82	Mr. Adeo to Mr. Portela....	...do....	Celebration of the first centennial of the independence of the Argentine Republic. Says United States accepts invitation to participate.	4
24	Mr. Adeo to Mr. Sherrill....	Sept. 3	Cable concessions granted by the Argentine Republic. Gives department's views relative to cable contract with English company.	63
	Mr. Portela to Mr. Knox...	Sept. 11	Fourth International Conference of American States. Invites United States to participate.	12
84	Mr. Adeo to Mr. Portela....	Oct. 8	Same subject. Accepts invitation to participate....	13
	Mr. Portela to Mr. Knox...	Nov. 29	Celebration of the first centennial of the independence of the Argentine Republic. Transmits program.	5
	Mr. Knox to Mr. Portela...	1910. Mar. 12	Fourth International Conference of American States. Transmits names of American delegates.	13
279	Mr. Sherrill to Mr. Knox...	Mar. 14	Cable concessions granted by the Argentine Republic. Incloses correspondence with foreign office concerning cable contract.	63
	Same to same (telegram)...	Apr. 5	Same subject. Says special ambassador will reach Buenos Aires May 19.	6
98	Mr. Wilson to Mr. Sherrill...	Mar. 31	Celebration of the first centennial of the independence of the Argentine Republic. Transmits information relative to officers and ships.	6
	Mr. Knox to Mr. Villegas...	Apr. 5	Same subject. Says Maj. Gen. Leonard Wood has been appointed special ambassador.	6
	Mr. Knox to Mr. Sherrill (telegram).	May 12	Boundary dispute between Ecuador and Peru. Transmits note regarding, for action and repetition to embassy at Petropolis.	449
	Same to same (telegram)...	May 13	Same subject. Transmits note from Chilean minister with instructions to repeat to Rio.	450
	Mr. Sherrill to Mr. Knox (telegram).	May 14	Same subject. Says Argentine Government desires to act in full accord with policies outlined by United States.	451
	Mr. Knox to Mr. Sherrill (telegram).	May 15	Same subject. Instructs legation to report whether Argentine assents to publication of identic note.	452
	Mr. Sherrill to Mr. Knox (telegram).	May 16	Same subject. Reports assent of Argentine to publication of identic note.	453
117	Mr. Wilson to Mr. Sherrill...	...do....	Cable concessions granted by the Argentine Republic. Gives views relative to cable contract.	65

ARGENTINE REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Knox to Mr. Sherrill (telegram).	1910. May 17	Boundary dispute between Ecuador and Peru. Reports Argentine Minister at Lima is without instructions and says joint note was presented unsigned.	453
	Mr. Wilson to Mr. Sherrill (telegram).	May 18	Same subject. Quotes telegram of this date to Lima and asks what action has been taken by Argentine.	455
	Mr. Sherrill to Mr. Knox (telegram).	...do....	Same subject. Reports action of Argentina regarding joint note.	455
	President Taft to President Figueroa (telegram).	May 25	Celebration of the first centennial of the independence of the Argentine Republic. Sends congratulations.	7
	Mr. Knox to Mr. Villegas....	...do....	Same subject. Says President Taft has sent congratulatory message.	7
	Mr. Wilson to Mr. Sherrill (telegram).	...do....	Same subject. Instructed to extend United States felicitations.	7
	Mr. Villegas to Mr. Knox....	...do....	Same subject. Expresses appreciation of good wishes of United States.	8
	President Figueroa to President Taft (telegram).	May 27	Same subject. Expresses thanks for good wishes of President of United States.	8
	Mr. Knox to Mr. Sherrill (telegram).	May 28	Boundary dispute between Ecuador and Peru. Suggests that June 4 be set by mediating powers for withdrawal of troops by Ecuador and Peru.	460
	Mr. Sherrill to Mr. Knox (telegram).	May 29	Same subject. Says Argentina agrees to June 4 for withdrawal of troops.	461
	Mr. Knox to Mr. Sherrill (telegram).	June 1	Same subject. Transmits copy of Aide Memoire to Ecuador and Peru regarding withdrawal of troops.	464
	Same to same (telegram)....	...do....	Same subject. Transmits Aide Memoire regarding withdrawal of troops for communication to Argentine Government and repetition to Embassy at Rio.	462
	Mr. Sherrill to Mr. Knox (telegram).	June 3	Same subject. Reports Argentine Government in complete accord with United States as to withdrawal of troops by Peru and Ecuador.	466
	Mr. Knox to Mr. Villegas....	June 9	Same subject. (Same as June 9, 1910, to Chilean chargé.)	469
	Mr. Villegas to Mr. Knox...	June 14	Celebration of the First Centennial of the Independence of the Argentine Republic. Expresses thanks for distinguished delegation sent.	9
	Mr. Knox to the American delegates.	...do....	Fourth International Conference of American States. Instructions.	14
	Mr. Wilson to Mr. Sherrill (telegram).	June 15	Boundary dispute between Ecuador and Peru. Transmits telegram of June 15 for action and repetition to Petropolis.	472
	Mr. Sherrill to Mr. Knox (telegram).	June 17	Same subject. Says Argentine Government approves action regarding withdrawal of troops.	473
428	Same to same.....	June 18	Celebration of the first centennial of the independence of the Argentine Republic. Transmits note acknowledging President Taft's congratulatory telegram.	9
106	Mr. Knox to Mr. Villegas	June 20	Same subject. Says department has conveyed to President expressions of appreciation for participation of United States.	10
437	Mr. Sherrill to Mr. Knox	June 22	Same subject. Transmits decree recognizing foreign representatives.	10
	Mr. Wilson to Mr. Sherrill (telegram).	June 23	Boundary dispute between Ecuador and Peru. Refers to draft protocol proposed by mediating powers for signature by Ecuador and Peru.	475
	Mr. Sherrill to Mr. Knox (telegram).	July 12	Fourth International Conference of American States. Reports opening of conference.	25
	Mr. Wilson to Mr. Sherrill (telegram).	July 13	Boundary dispute between Ecuador and Peru. Transmits telegram regarding protocol to be presented to Ecuador and Peru.	483
	Same to same (telegram)....	July 14	Same subject. For information of Embassy and repetition to Petropolis quotes telegram of July 13, to Buenos Aires.	485
	Mr. Wilson to Mr. Villegas.	July 21	Same subject. Suggests that effort be made to induce Ecuador to accept protocol as it stands.	489
	Same to same.....	July 28	Same subject. Refers to condition of boundary negotiations and incloses copy of telegram from the legation at Quito.	492
	Mr. Villegas to Mr. Wilson.	July 29	Same subject. Transmits note from Argentine foreign office regarding Chilean cooperation in mediation proceedings.	493
	Mr. Wilson to Mr. Villegas.	Aug. 8	Same subject. Acknowledges note regarding statement as to Chilean cooperation in mediation proceedings.	495
	Mr. Wilson to Mr. Sherrill (telegram).	Aug. 10	Same subject. Repeats telegram of Aug. 10 to Quito.	495
	Mr. Wilson to Mr. Villegas.	...do....	Same subject. Asks cooperation of Argentina in impressing upon Ecuador necessity for conciliatory disposition in boundary dispute.	496

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No.	From and to whom.	Date.	Subject.	Page.
	Mr. Villegas to Mr. Knox...	1910. Aug. 12	Same subject. Says Argentine minister at Quito instructed to urge upon Ecuador necessity for conciliatory attitude toward protocol.	497
	Mr. Wilson to Mr. Villegas.	Aug. 20	Same subject. (Same, mutatis mutandis, as Aug. 20, to the Brazilian chargé.)	498
	Mr. Villegas to Mr. Knox...	Aug. 27	Same subject. Transmits telegram from foreign office regarding cooperation of Argentine in boundary matter.	499
	Mr. Arizaga to Mr. Villegas.	...do....	Same subject. Transmits statement regarding attitude of Ecuador toward draft protocol.	500
	The American delegates to Mr. Knox.	Aug. 30	Fourth International Conference of American States. Report of United States delegates.	25
	Mr. Wilson to Mr. Villegas.	Sept. 1	Boundary dispute between Ecuador and Peru. (Same, mutatis mutandis, as Sept. 1, to Brazilian chargé.)	502
	Mr. Villegas to Mr. Knox...	Nov. 22	Celebration of the first centennial of the independence of the Argentine Republic. Transmits letter from President of Argentina to the President of the United States.	11
	Mr. Knox to Mr. Villegas...	Nov. 30	Same subject. Acknowledges receipt of letter from President of Argentina to President Taft.	12
	Same to same.....	Dec. 19	Boundary dispute between Ecuador and Peru. (Same as Dec. 19, 1910, aide memoire to Brazilian embassy.)	504
	Mr. Knox to Mr. Bliss (telegram)	...do.....	Same subject. Transmits for discussion with Argentine Government aide memoire suggesting that boundary dispute be referred to The Hague.	504
	Mr. Bliss to Mr. Knox (telegram).	Dec. 21	Same subject. Argentine Government asks if Peru and Ecuador are willing to refer question to The Hague.	505
	Same to same (telegram)...	Dec. 28	Same subject. Says President of Peru approves proposal to refer dispute to The Hague.	507

AUSTRIA.

2028	Mr. Ambrózy to Mr. Knox.	1909. Aug. 18	Citizenship of Rudolf Warren-Lippit. Asks relative to citizenship of Rudolf Warren-Lippit and son now residing in Austria.	71
471	Mr. Adee to Mr. Ambrózy.	Sept. 8	Same subject. Says when report regarding the citizenship is received he will be advised.	71
358	Mr. Adee to Mr. Rives.....	...do.....	Same subject. Instruction to investigate and report regarding Rudolf Warren-Lippit and son.	72
536	Mr. Ambrózy to Mr. Knox.	1910. Mar. 10	Same subject. Asks to be advised as to result of investigation.	73
409	Mr. Knox to Mr. Rives.....	Mar. 24	Same subject. Instructed to investigate and report.	73
512	Mr. Knox to Mr. Ambrózy.	...do.....	Same subject. Says report will be communicated to him immediately upon its receipt.	73
5	Mr. Kerens to Mr. Knox...	Apr. 20	Emigration and military service law of Hungary. Transmits foreign office note relative to Hungarian emigration law.	67
22	Same to same.....	May 10	Citizenship of Rudolf Warren-Lippit. Reports regarding application for passport.	74
13	Mr. Knox to Mr. Kerens...	May 13	Emigration and military service law of Hungary. Instructed to report relative to enrollment age in Hungary.	67
19	Mr. Kerens to Mr. Knox...	May 28	Same subject. Transmits note to foreign office.....	68
	Mr. Knox to Mr. Kerens...	June 1	Citizenship of Rudolf Warren-Lippit. Instruction regarding passport applications.	74
	Mr. Kerens to Mr. Knox...	June 21	Emigration and military service law of Hungary. Transmits note from foreign office regarding application of law to former subjects of Austria and Hungary.	69
50	Same to same.....	July 6	Joint International Commission for the Investigation of the Opium Question in the Far East. Incloses memorandum giving reasons for nonparticipation of Austria.	307
66	Same to same.....	July 30	Citizenship of Rudolf Warren-Lippit. Transmits passport application and memorandum relative thereto.	75
105	Same to same.....	Sept. 22	Same subject. Asks what decision has been made relative to granting passport.	76
63	Mr. Adee to Mr. Kerens.....	Oct. 4	Joint International Commission for the Investigation of the Opium Question in the Far East. Regrets decision of Austro-Hungarian Government not to participate.	317
	Same to same.....	Oct. 7	Citizenship of Rudolf Warren-Lippit. Gives reasons for refusing passport.	76

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2427	Baron Hengelmüller to Mr. Knox.	1909 Oct. 11	Extradition of Moritz Ormai to Austria-Hungary. Requests provisional detention until evidence of additional crimes can be secured.	77
602	Mr. Knox to Baron Hengelmüller.	Oct. 18	Same subject. Says if extradition is desired for additional crimes same proceedings should be followed as in original request.	77
2497	Baron Hengelmüller to Mr. Knox.	Oct. 21	Same subject. Says extradition for further crimes will not be requested and that he has been embarked.	78
606	Mr. Knox to Baron Hengelmüller.	Oct. 26	Same subject. Informs him as to period of detention in extradition cases.	78
71	Mr. Adeë to Mr. Kerens....	Nov. 1	Emigration and military service law of Hungary. Transmits copy of notice to former subjects of Austria and Hungary who contemplate returning to those countries.	70

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	Mr. Knox to Mr. Rives....	1909 Nov. 3	Proposed alternative procedure for the international prize court and the investment of the international prize court with the functions of a court of arbitral justice. Transmits copy of identic circular note with instructions to communicate to Austro-Hungarian Government.	597
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15	Mr. Bryan to Mr. Knox....	1910 Mar. 18	Affairs in the Kongo. Transmits program of proposed reforms.	686
	Mr. Hale to Mr. Bryan (telegram).	Apr. 12	Transit of fugitive from justice in course of extradition proceedings between Luxemburg and the United States. Cooperate with legation at Hague to secure from Belgian Government permission for transit of fugitive.	82
23	Mr. Bryan to Mr. Knox....	Apr. 1	Affairs in the Kongo. Decrees of the Belgian Government affecting Kongo.	687
25	Mr. Knox to Mr. Bryan....	Apr. 26	Same subject. States this Government's attitude toward contemplated reforms.	688
	Mr. Wilson to Count de Buisseret.	May 2	Right of Agricultural Corporation to purchase and hold land in the Philippine Islands. Transmits copy of opinion of Attorney General.	80
38	Mr. Bryan to Mr. Knox....	May 5	Affairs in the Kongo. Transmits address of the King and the minister of the colonies regarding reforms.	689
	Mr. Knox to Mr. Bryan....	June 6	Same subject. Outlines Department's attitude concerning affairs in the Kongo.	693
62	Mr. Bryan to Mr. Knox....	June 17	Third International Conference on Maritime Law, 1910 session. Says Sept. 12, 1910 has been set for meeting.	105
	Mr. Adeë to the American delegation.	Aug. 23	Same subject. Gives instructions.....	105
	Mr. Knox to Mr. Bryan....	Oct. 26	International prize court and court of arbitral justice. (Same, mutatis mutandis as Oct. 26, 1910, to Rome).	634

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	Mr. Knox to Mr. Knowles..	1910. Oct. 26	International Prize Court and Court of Arbitral Justice. Same (Mutatis mutandis, as Oct. 26, 1910, to Rome).	634
	Mr. Knox to Mr. Benson...	Dec. 17	Same subject. In absence of Netherlands representative at La Paz, legation is instructed to present additional prize court protocol to Bolivia.	633

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		1910.		
	Mr. Dudley to Mr. Knox (telegram).	Jan. 16	Preferential tariff concession in favor of American products. Says Brazil will grant 20 per cent reduction during 1910.	121
	Mr. Knox to Mr. Dudley (telegram).	Jan. 17	Death of Joaquim Nabuco, Brazilian ambassador to the United States. Offers condolences of Government and people of United States.	111
	Mr. Knox to Mr. Chermont.	...do....	Same subject. Expresses sorrow of President, himself, and officers of department.	110
	President Taft to President Pecanha (telegram).	...do....	Same subject. Offers condolence.	110
474	Mr. Dudley to Mr. Knox...	...do....	Preferential tariff concession in favor of American products. Reports relative to proposed preferential treatment.	121
	Mr. Chermont to Mr. Knox.	...do....	Death of Joaquim Nabuco, Brazilian ambassador to the United States. Announces death.	110
	President Pecanha to President Taft (telegram).	Jan. 18	Same subject. Expresses appreciation for telegram of condolence.	111
	Mr. Dudley to Mr. Knox (telegram).	Jan. 20	Same subject. Transmits telegram expressing appreciation for honors shown by United States.	111
	Mr. Knox to Mr. Chermont.	...do....	Same subject. Says President's yacht will be at disposal of Madame Nabuco to convey remains to Hampton Roads.	111
	Mr. Chermont to Mr. Knox.	Jan. 21	Same subject. Expresses thanks of his Government for sympathetic attitude of United States.	112
	Mr. Knox to Mr. Dudley (telegram).	Jan. 22	Preferential tariff concessions in favor of American products. Instructed to express appreciation.	121
	Mr. Chermont to Mr. Knox.	...do....	Death of Joaquim Nabuco, Brazilian ambassador to the United States. Expresses thanks of his Government for tender of President's yacht.	112
	Mr. Knox to Mr. Chermont.	Jan. 27	Same subject. Says North Carolina will convey remains, and that commanding officer will cooperate with authorities at Rio.	113
	-----	Apr. 12	Naturalization convention between the United States and Brazil. Text.	113
	Mr. Dudley to Mr. Knox (telegram).	May 14	Boundary dispute between Ecuador and Peru. Says Brazil desires to join tripartite mediation offer and will instruct representatives accordingly.	451
	Mr. Knox to Mr. Dudley (telegram).	May 15	Same subject. (Same as telegram to Buenos Aires).	452
	Mr. Dudley to Mr. Knox (telegram).	May 18	Same subject. Says Argentine Government assents to publication of joint note.	456
	Mr. Wilson to Mr. Dudley (telegram).	...do....	Same subject. (Quotes telegram of this date to Lima.)	455
539	Mr. Dudley to Mr. Knox...	May 27	Message of the President of Brazil to the Brazilian Congress. Incloses copy.	115
	Same to same (telegram)...	May 30	Says Brazil agrees to June 4 for withdrawal of troops.	461
	Mr. Knox to Mr. Dudley (telegram).	June 1	Same subject. Instructed to inform minister for foreign affairs that department concurs in suggestion reported in legation's May 30.	463
	Mr. Dudley to Mr. Knox (telegram).	June 3	Same subject. Says Brazil will instruct its representatives as to withdrawal of troops by Peru and Ecuador on June 4.	466
	Mr. Knox to Mr. de Lima.	June 9	Same subject. (Same as June 9, 1910, to Chilean chargé.)	469
	Mr. Wilson to Mr. de Lima.	June 10	Same subject. Refers to aide memoire of June 1 regarding mediation.	470
	Mr. Dudley to Mr. Knox (telegram).	June 17	Same subject. Says Brazil will instruct its representatives at Lima and Quito regarding withdrawal of troops.	474
	Mr. Wilson to Mr. de Lima.	July 21	Same subject. (Same mutatis mutandis, as July 21, to Argentine chargé.)	489
	Same to same.....	July 28	Same subject. (Mutatis mutandis, as July 28, to the Argentine chargé.)	492
	Mr. Wilson to Mr. Dudley (telegram).	Aug. 10	Same subject. (See telegram of this date to Quito).	495
	Mr. Wilson to Mr. de Lima.	...do....	Same subject. (Same mutatis mutandis, as Aug. 10, to Argentine chargé.)	496
	Same to same.....	Aug. 20	Same subject. Reviews tripartite mediation proceedings and asks cooperation of his Government.	498
	Mr. Arizaga to Mr. de Lima.	Aug. 27	Same subject. Transmits statement regarding attitude of Ecuador toward draft protocol.	500
	Mr. Wilson to Mr. de Lima.	Sept. 1	Same subject. Transmits copy of note from minister of Ecuador regarding views of that Government relative to protocol.	502
	Aide-memoire to the Brazilian embassy.	Dec. 19	Same subject. Suggests that controversy be referred to The Hague.	504
	Mr. Dudley to Mr. Knox (telegram).	Dec. 22	Same subject. Says Brazil thinks dispute should be referred to The Hague.	505
	Mr. Knox to Mr. Dudley (telegram).	Dec. 23	Same subject. Instructs legation regarding Peru-Colombian question.	505

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54	Mr. Harvey to Mr. Knox...	1910. Feb. 7	Extradition of Vahan Nalbandian granted by Bulgaria as an act of grace. Incloses correspondence with Bulgarian legation relative to surrender.	123
52	Same to same.....	Feb. 5	Same subject. Incloses correspondence with foreign office.	122
	Same to same (telegram)....	...do....	Same subject. Reports arrest and says surrender will be made on presentation of extradition papers.	122
26	Mr. Knox to Mr. Harvey...	Feb. 9	Collection of supplementary income tax from foreigners engaged in business in Bulgaria. Approves representations made.	123
	Mr. Harvey to Mr. Knox (telegram).	Feb. 17	Extradition of Vahan Nalbandian granted by Bulgaria as an act of grace. Says surrender will be made with understanding that United States can not reciprocate.	124
	Mr. Wilson to Mr. Harvey (telegram).	Feb. 18	Same subject. Says extradition papers will be forwarded and directs that Bulgaria be formally informed of inability of United States to reciprocate.	125
	Mr. Knox to Mr. Harvey (telegram).	...do....	Same subject. Says surrender must be act of grace as United States can not reciprocate.	124
30	Mr. Wilson to Mr. Harvey.	Feb. 19	Same subject. Incloses extradition papers which are to be presented with statement that United States can not reciprocate.	125
9	Mr. Harvey to Mr. Knox...	Apr. 7	Same subject. Incloses correspondence with foreign office.	125
63	Mr. Carter to Mr. Knox....	Apr. 9	Same subject. Reports change of plans and his action relative thereto.	127
29	Mr. Knox to Mr. Carter....	Apr. 25	Same subject. Commends legation.....	128
28	Mr. Knox to Mr. Harvey....	...do....	Same subject. Commends handling of matter.....	128

CHILE.

60	Mr. Root to Mr. Hicks.....	1907. Apr. 30	Arbitration of the claim of Alsop & Co., an American corporation, v. Chile. Directs that Alsop claim again be taken up.	138
	Mr. Janes to Mr. Root (telegram).	Aug. 1	Same subject. Reports attitude of Chile.....	143
163	Same to same.....	1907. Aug. 5	Same subject. Reports presentation of claim.....	143
	Mr. Hicks to Mr. Root.....	Nov. 11	Same subject. Reports regarding claim.....	145
122	Mr. Yoacham to Mr. Root..	1908. July 31	Same subject. Incloses note from foreign office.....	146
	Mr. Adee to Mr. Cruz.....	Aug. 29	Same subject. Acknowledges receipt of report from foreign office.	154
17	Mr. Bacon to Mr. Cruz.....	Nov. 24	Same subject. Refers to former correspondence and asks for antecedents.	154
7	Mr. Cruz to Mr. Root.....	Nov. 26	Same subject. Says information and antecedents will be furnished when received.	155
	Mr. Bacon to Mr. Hicks (telegram).	1909. Jan. 24	Same subject. Inform foreign office that department awaits antecedents.	156
311	Mr. Hicks to Mr. Bacon....	Feb. 22	Protection of children born in Chile of Chinese parents. Asks instructions relative to.	194
	Same to same (telegram)...	Feb. 26	Arbitration in the claim of Alsop & Co., an American Corporation, v. Chile. Foreign office says antecedents sent to Washington.	156
22	Mr. Knox to Mr. Cruz.....	Mar. 18	Same subject. Asks that documents be sent to department.	156
18	Mr. Cruz to Mr. Knox.....	Apr. 16	Same subject. Explains action of Chile in reducing amount of claim.	157
23	Mr. Wilson to Mr. Cruz....	Apr. 22	Same subject. Department does not think claimants should accept sum less than is called for in 1876 contract.	158
20	Mr. Cruz to Mr. Knox.....	Apr. 23	Same subject. Explains principal antecedents which Chilean Government stands on.	158
	Mr. Edwards to Mr. Dawson.	Oct. 15	Same subject. Acknowledges note and explains attitude of Chilean Government.	178
5	Mr. Knox to Mr. Dawson...	Aug. 5	Same subject. Transmits note which department desires presented to foreign office.	159
2	Mr. Cruz to Mr. Knox.....	1910. Jan. 27	Celebration of Chilean centennial. Invites United States to participate.	189
324	Mr. Cresson to Mr. Knox...	Feb. 22	Boundary dispute between Ecuador and Peru. Reports feeling in Lima regarding boundary arbitration.	438
31	Mr. Knox to Mr. Cruz.....	Feb. 24	Celebration of Chilean centennial. Accepts invitation to participate.	189

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68	Mr. Pierrepont to Mr. Knox	1910. Mar. 8	Boundary dispute between Ecuador and Peru. Reports issuance of order expelling Peruvian curates from Tacna.	439
5	Mr. Cruz to Mr. Knox.....	Mar. 28	Celebration of Chilean centennial. Says Government appreciates acceptance by United States.	190
73	Mr. Pierrepont to Mr. Knox	Apr. 4	Boundary dispute between Ecuador and Peru. Transmits copy of foreign office note regarding proposal of United States.	443
	Same to same (telegram)....	Apr. 7	Same subject. Reports action by Chilean Government regarding United States proposal.	444
	Aide-memoire to the Chilean legation.	June 1	Same subject. Gives views regarding the withdrawal of troops from the frontier.	462
	Mr. Pierrepont to Mr. Knox	June 7	Message of the President of Chile to the Chilean Congress. Transmits copy.	195
	Mr. Knox to Mr. Yoacham..	June 9	Boundary dispute between Ecuador and Peru. Transmits memorandum embodying views of United States regarding suggestion of Ecuadorean Government as to Article VI of arbitration convention.	468
10	Mr. Yoacham to Mr. Knox..	June 10	Celebration of Chilean centennial. Requests information re officers of United States participating ships.	190
34	Mr. Knox to Mr. Yoacham..	June 28	Same subject. Says First Division of Pacific Fleet will arrive at Valparaiso Sept. 10.	191
	Mr. Knox to American special delegates.	...do....	Same subject. Transmits appointments as special delegates.	192
	Mr. Pierrepont to Mr. Knox (telegram).	July 9	Visit of Señor Don Pedro Montt, President of Chile, to the United States. Says President of Chile has transferred executive authority to Vice President.	130
	Same to same (telegram)...	July 14	Boundary dispute between Ecuador and Peru. Says joint action will be taken when colleagues receive instructions.	487
16	Mr. Yoacham to Mr. Knox..	July 16	Visit of Señor Don Pedro Montt, President of Chile, to the United States. Says President of Chile expresses thanks for desire of United States to entertain him during his visit.	130
	Mr. Pierrepont to Mr. Knox (telegram).	July 19	Boundary dispute between Ecuador and Peru. Says Government of Chile renews assurances of cooperation.	489
150	Mr. Wilson to Mr. Pierrepont.	Aug. 3	Protection of children born in Chile of Chinese parents. Instructions relative to.	195
	Same to same (telegram)...	Aug. 10	Boundary dispute between Ecuador and Peru. (See telegram of this date to Quito.)	495
	President Montt to Mr. Hale.	...do....	Visit of Señor Don Pedro Montt, President of Chile, to the United States. Expresses thanks for courtesies.	131
18	Mr. Yoacham to Mr. Knox..	Aug. 11	Same subject. Transmits letter of thanks from the President of Chile.	131
19	Same to same.....	Aug. 17	Announces death of President. Death of Señor Don Pedro Montt and Señor Don Elias Fernandez Albano, President and Vice President, respectively, of Chile.	132
	President Taft to Vice President Albano (telegram).	...do....	Same subject. Expresses sympathy.....	133
	Mr. Knox to Madam Montt (telegram).	...do....	Same subject. Expresses sympathy.....	133
39	Mr. Wilson to Mr. Yoacham	Aug. 18	Visit of Señor Don Pedro Montt, President of Chile, to the United States. Says letter of President of Chile has been forwarded to President Taft.	132
40	Same to same.....	Aug. 25	Death of Señor Don Pedro Montt and Señor Don Elias Fernandez Albano, President and Vice President, respectively. News of death of President Montt is received with sorrow.	134
	Mr. Wilson to Mr. Pierrepont.	Aug. 17	Same subject. Directs him to express condolences. Says flags at half-mast on Government buildings in Washington.	133
	Mr. Pierrepont to Mr. Knox (telegram).	Sept. 6	Same subject. Reports death of Vice President....	134
20	Mr. Yoacham to Mr. Knox..	Sept. 7	Same subject. Announces death of Vice President..	134
	President Taft to Mr. Figueroa (telegram).	...do....	Same subject. Offers condolences.....	135
	Mr. Wilson to Mr. Pierrepont (telegram).	...do....	Same subject. Condolences.....	135
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41	Mr. Wilson to Mr. Yoacham	Sept. 10	Same subject. Expresses sympathy.....	135
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	Special delegates to the Secretary of State.	Oct. 4	Same subject. Submit report.....	193
	Mr. Knox to Mr. Fletcher..	Oct. 26	International Prize Court and Court of Arbitral Justice. (Same mutatis mutandis, as Oct. 26, 1910, to Rome.)	634
	Mr. Yoacham to Mr. Knox..	Dec. 18	Death of Señor Anibal Cruz, Chilean minister to the United States. Announces death.	136
	Mr. Knox to Mr. Yoacham.	Dec. 24	Same subject. Says Delaware has been detailed to convey remains.	136
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	Mr. Knox to Mr. Fletcher (telegram).	Jan. 23	Same subject. Says entire legation staff should meet body on its arrival.	136
	Commission appointed to accompany remains of late Chilean minister to Mr. Knox.	Feb. 1	Same subject. Expresses appreciation for courtesies shown them by United States officials.	137
	Mr. Knox to the members of the commission appointed to accompany the remains of late Chilean minister.	Feb. 9	Same subject. Says note expressing appreciation for courtesies extended by United States officials has been communicated to appropriate officers.	137

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		1909.		
1154	Mr. Rockhill to Mr. Knox..	May 19	Same subject. Incloses copy of preliminary arrangement.	208
1198	Mr. Fletcher to Mr. Knox..	July 3	Same subject. Incloses copy of note to foreign office.	212
617	Mr. Adee to Mr. Fletcher...	Aug. 10	Same subject. Incloses copy of instruction of Aug. 6 to Russia.	214
	Same to same.....	Aug. 11	Same subject. Approves legation's attitude.....	214
619	Same to same.....	Aug. 12	Same subject. Approves note of June 23 to foreign office.	215
1267	Mr. Fletcher to Mr. Knox..	Oct. 7	Proposal for the neutralization of railways in Manchuria. Transmits copy of agreement for construction of Chinchow-Aigun Railway.	231
	Mr. Knox to Mr. Fletcher (telegram).	Nov. 9	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Directed to report whether China has denounced agreement.	220
	Mr. Fletcher to Mr. Knox (telegram).	Nov. 11	Same subject. Says China has not denounced agreement, but has made certain representations relative to conditions.	221
1313	Same to same.....	Dec. 6	Same subject. Incloses note from foreign office on subject of interpretation of agreement.	221
1317	Same to same.....	do.....	Political affairs in China. Transmits copies of imperial decrees regarding constitutional reform.	328
	Mr. Knox to Mr. Calhoun (telegram).	Dec. 14	Proposed neutralization of railways in Manchuria. See telegram of this date to Japan.	236
	Mr. Wilson to Mr. Fletcher (telegram).	Dec. 15	Same subject. Instructed to seek Chinese approval of Japanese participation.	237
1323	Mr. Fletcher to Mr. Knox..	Dec. 17	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Incloses foreign office reply to legation's note.	223
	Same to same (telegram)...	Dec. 23	Proposal for the neutralization of railways in Manchuria. Says China approves general principle involved in project.	240
47	Mr. Greene to Mr. Wilson..	Dec. 27	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Reports relative to tax collections.	224
1329	Mr. Fletcher to Mr. Knox..	Dec. 28	Proposal for the neutralization of railways in Manchuria. Transmits copy of memorandum presented to foreign office.	240
1332	Same to same.....	Dec. 31	Same subject. Says British minister advises him of approval of project.	242
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	Same to same (telegram)...	Jan. 2	Same subject. Says embassy at Tokyo advised that Chinchow-Aigun agreement not ratified by China.	243
688	Mr. Adee to Mr. Fletcher...	Jan. 5	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Approves attitude and gives views.	226

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	Mr. Knox to Mr. Fletcher (telegram).	...do....	Proposal for the neutralization of railways in Manchuria. Inform China that success of neutralization project depends largely upon her ratification of Chinchow agreement.	245
	Mr. Fletcher to Mr. Knox (telegram).	...do....	Same subject. Says China approves Chinchow project but will not proceed further with matter for present.	245
1338	Same to same.....	Jan. 10	Joint International Commission for the Investigation of the Opium Question in the Far East. Transmits note from foreign office regarding China's terms of acceptance of proposals.	292
692	Mr. Knox to Mr. Fletcher..	Jan. 19	The Hukuang Railway loan. Reviews negotiations and gives views.	270
	Mr. Fletcher to Mr. Knox (telegram).	Jan. 20	Proposal for the neutralization of railways in Manchuria. Says he is informed edict has been issued ratifying Chinchow agreement.	246
	Same to same (telegram)...	Jan. 21	Same subject. Reports memorial relative to foreign loan for building Chinchow-Aigun Railway.	248
1347	Same to same.....	Jan. 24	Same subject. Incloses correspondence relative to ratification of Chinchow-Aigun agreement.	252
1348	Same to same.....	Jan. 31	Same subject. Transmits reply of foreign office relative to Chinchow-Aigun matter.	254
1334	Same to same.....	Feb. 1	Political affairs in China. Transmits edict reaffirming purpose of Throne to adhere to original constitutional reform program.	329
699	Mr. Knox to Mr. Fletcher..	Feb. 7	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Says that in view of China's decision to notify American consul concerning detailed regulations discussion of detailed objections will be deferred.	229
1358	Mr. Fletcher to Mr. Knox..	...do....	Proposal for the neutralization of railways in Manchuria. Reports interview with foreign office relative to Russian and Japanese protests.	257
1359	Same to same.....	...do....	Joint International Commission for the Investigation of the Opium Question in the Far East. Transmits copy of new laws regarding opium suppression.	294
1360	Same to same.....	...do....	Political affairs in China. Transmits edict replying to memorial regarding the date of opening of Imperial Parliament.	330
1367	Same to same.....	Feb. 19	Joint International Commission for the Investigation of the Opium Question in the Far East. Incloses note relative to importation of cocaine and says China wishes same restrictions on this drug as are applied to morphine.	298
	Mr. Wilson to Mr. Fletcher. (telegram).	Mar. 1	Proposal for the neutralization of railways in Manchuria. Requests text of China's promise to Russia regarding building of railways.	263
1387	Mr. Fletcher to Mr. Knox..	Mar. 4	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Transmits note from foreign office regarding.	338
1386	Same to same.....	...do....	Proposal for the neutralization of railways in Manchuria. Transmits foreign office note to Russian minister at Peking.	263
3	Mr. Chang to Mr. Knox....	Mar. 8	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Says visit will be for purpose of studying military system.	338
708	Mr. Knox to Mr. Fletcher..	Mar. 9	Joint International Commission for the Investigation of the Opium Question in the Far East. Express to Chinese Government appreciation of acceptance.	303
193	Mr. Knox to Mr. Chang....	Mar. 12	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Says arrangements will be made to facilitate inquiries of prince regarding military system of the United States.	339
194	Mr. Wilson to Mr. Chang...	...do....	Taxes levied in Manchuria upon foreign goods certified as exempt therefrom. Calls attention to the improper levy of taxes upon foreign goods by authorities in Manchuria.	198
4	Mr. Chang to Mr. Knox....	Mar. 16	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Expresses appreciation for proposed courtesies to prince.	340
1398	Mr. Fletcher to Mr. Knox..	...do....	Same subject. Transmits note regarding visit and gives the names of suite.	339
	Mr. Knox to Mr. Fletcher..	Mar. 28	Joint International Commission for the Investigation of the Opium Question in the Far East. Approves proposed measures to restrict importation of cocaine.	304

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196	Mr. Knox to Mr. Chang....	1910. Apr. 8	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Says Col. Schuyler has been detailed to meet the prince on his arrival.	340
	Mr. Fletcher to Mr. Knox (telegram).	Apr. 15	Riots at Chang-sha and claims arising therefrom. Reports occurrence of riots.	342
	Mr. Knox to Mr. Calhoun (telegram).	Apr. 18	Proposal for the neutralization of railways in Manchuria. Repeats résumé of memorandum relative to Russo-Chinese agreement of 1899.	267
	Mr. Baugh to Mr. Knox (telegram).	Apr. 22	Riots at Chang-sha and claims arising therefrom. Reports serious disturbances at Hunan missions.	342
	Mr. Calhoun to Mr. Knox (telegram).	..do....	Same subject. Reports relative to Hunan situation.	343
12	Mr. Knox to Mr. Calhoun..	Apr. 25	Status of American corporations in the Chinese Empire. Incloses copy of instruction to consul at Amoy.	197
	Mr. Calhoun to Mr. Knox (telegram).	Apr. 30	Riots at Chang-sha and claims arising therefrom. Says military attaché has been instructed to go to Chang-sha to ascertain damage to American property.	343
	Same to same (telegram)...	May 1	Same subject. Reports Hunan situation improved.	343
	Same to same (telegram)...	May 5	Same subject. Asks instructions regarding claims.	343
	Mr. Wilson to Mr. Calhoun (telegram).	May 7	Same subject. Instructs legation as to procedure re claims.	344
16	Mr. Calhoun to Mr. Knox..	May 12	Same subject. Transmits newspaper clippings relating to riots.	344
17	Same to same.....	..do....	Same subject. Transmits copy of instruction to Hankow regarding claims.	347
8	Mr. Chang to Mr. Knox....	May 16	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Expresses thanks of his Government for courtesies extended to the prince.	341
199	Mr. Knox to Mr. Chang....	May 23	Same subject. Says United States is gratified to learn that visit was so satisfactory.	341
	Mr. Knox to Mr. Calhoun (telegram).	May 24	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Says department considers that Americans should pay taxes the same as other residents and directs that the consul be so informed.	230
21	Mr. Calhoun to Mr. Knox..	May 25	Political affairs in China. Transmits memorandum regarding the Chinese constitutional assembly with translation of regulations.	331
25	Mr. Knox to Mr. Calhoun..	June 1	Proposed establishment by the Chinese Eastern Railway Co. of a municipal administration at Harbin. Department considers that Americans should pay taxes the same as other residents, and directs that he so inform the Chinese Government and the American consul at Harbin.	230
33	Mr. Calhoun to Mr. Knox..	June 9	Riots at Chang-sha and claims arising therefrom. Transmits correspondence relative to recent disturbances.	348
	Same to same.....	June 16	Same subject. Transmits newspaper clippings regarding riots.	350
43	Same to same.....	June 23	The Whangpoo River conservancy scheme. Incloses correspondence protesting against dismissal of chief engineer.	353
	Mr. Knox to Mr. Calhoun (telegram).	June 28	The Hukuang railway loan. Says United States approves settlement of Hukuang loan agreement.	287
32	Mr. Wilson to Mr. Calhoun.	June 29	Riots at Chang-sha and claims arising therefrom. Approves instruction to Hankow.	351
37	Same to same.....	July 2	Copyrights in China and Japan. Incloses letter to Ginn & Co., outlining present status of copyright protection to American publications.	200
49	Mr. Calhoun to Mr. Knox..	July 9	Political affairs in China. Transmits copy of imperial edict replying to memorial soliciting the earlier opening of Parliament.	336
	Same to same.....	July 23	Agreement between Japan and Russia relative to Manchuria. Transmits copy of circular note from foreign office relative to agreement.	836
	Same to same (telegram)...	Aug. 2	Joint International Commission for the Investigation of the Opium Question in the Far East. Says Netherlands Government has agreed to request of China that opium conference be postponed until Oct. 15.	310
59	Same to same.....	Aug. 3	The Hukuang Railway loan. Transmits copy of identic note relating to loan agreement.	288
60	Same to same.....	Aug. 4	The Whangpoo River conservancy scheme. Reports condition of work.	357
	Mr. Wilson to Mr. Calhoun (telegram).	Aug. 5	Joint International Commission for the Investigation of the Opium Question in the Far East. Says fixing of date of conference is purely according to convenience of participating powers.	310

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No.	From and to whom.	Date.	Subject.	Page.
11	Mr. Chang to Mr. Knox....	1910. Aug. 5	Visit of His Imperial Highness Prince Tsai-t'ao to the United States. Transmits telegram from Chinese Government to President Taft regarding visit.	342
13	Same to same.....	Aug. 11	Agreement between Japan and Russia relative to Manchuria. Transmits telegram from his Government relative to agreement.	837
	Mr. Calhoun to Mr. Knox...	Aug. 13	The Hukuang Railway loan. Transmits copy of foreign office reply to identic note relating to loan agreement.	289
	Mr. Wilson to Mr. Calhoun.	Aug. 17	The Whangpoo River conservancy scheme. Department approves, with certain restrictions, conference with colleagues to consider plan for raising funds.	359
64	Same to same.....	Sept. 15	Same subject. Says he may cooperate with colleagues, but must endeavor to save China from any financial burden.	359
	Mr. Calhoun to Mr. Knox (telegram).	Oct. 5	The Hukuang Railway loan. Reports conference between bankers and board of communications relative to validity of agreement of June 6.	290
	Mr. Adee to Mr. Calhoun (telegram).	Oct. 7	Same subject. Outlines department's policy relative to participation in Chinese loans.	291
	Mr. Calhoun to Mr. Knox (telegram).	Oct. 15	Riots at Chang-sha and claims arising therefrom. Suggests that consul general at Hankow be empowered to settle claims.	351
	Mr. Adee to Mr. Calhoun (telegram).	...do....	Same subject. Says he may instruct consul general at Hankow to negotiate settlement of claims if he approves them.	352
	Mr. Calhoun to Mr. Knox (telegram).	Oct. 16	Same subject. Makes certain suggestions regarding settlement of claims.	352
	Mr. Knox to Mr. Calhoun (telegram).	Oct. 22	Same subject. Instructs him concerning settlement of claims.	352
112	Mr. Calhoun to Mr. Knox...	Oct. 25	Joint International Commission for the Investigation of the Opium Question in the Far East. Transmits notes from foreign office relative to delegates.	317
	Same to same (telegram)...	Nov. 4	Political affairs in China. Says imperial decree just issued fixes 1913 for opening of Parliament.	337
90	Mr. Knox to Mr. Calhoun...	Dec. 6	Joint International Commission for the Investigation of the Opium Question in the Far East. Expresses gratification with appointment of delegates, and instructs him to advise China concerning British terms of participation.	325
	Same to same.....	Dec. 7	Same subject. Instructs him to inform China concerning compulsory declaration regarding morphine and cocaine.	325
	Same to same.....	Dec. 29	Same subject. Transmits for information of foreign office copies of hearing on proposed opium legislation.	327

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	Mr. Bacon to Mr. Dawson (telegram).	1909. Feb. 9	Treaties between the United States and the Republic of Panama and Colombia relating to the Panama Canal. Instructs him to urge ratification of treaty by Colombia.	361
232	Mr. Hibben to Mr. Bacon...	Feb. 12	Same subject. Transmits newspaper article regarding treaty.	361
	Mr. Dawson to Mr. Bacon (telegram).	Feb. 14	Same subject. Reports favorable prospects for ratification.	363
	Same to same (telegram)....	Feb. 17	Same subject. Says unanimous ratification expected.	363
235	Same to same.....	...do....	Same subject. Reports interview with President regarding ratification, and transmits copies of foreign office correspondence.	363
	Same to same (telegram)....	Feb. 23	Same subject. Reports that treaty is before special committee of Congress.	365
	Mr. Bacon to Mr. Dawson (telegram).	Feb. 26	Same subject. Says treaty approved by United States Senate.	365
241	Mr. Dawson to Mr. Bacon...	...do....	Same subject. Transmits communications from President and minister for foreign affairs to Columbian Assembly regarding treaty.	365
	Same to same (telegram)....	Mar. 1	Same subject. Says opposition is developing in assembly.	376
	Mr. Dawson to Mr. Knox (telegram).	Mar. 10	Same subject. Reports student demonstration against treaty.	376
	Same to same (telegram)....	Mar. 14	Same subject. Says José Holguin assumed presidency on 13th and consideration of treaty indefinitely postponed.	376

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52	Mr. Knox to Mr. Dawson (telegram).	Mar. 15	Same subject. Instructs him to keep department informed as to outbreak against treaty ratification.	377
	Mr. Cortes to Mr. Knox.....	do.....	Same subject. Communicates information regarding delay in ratification of treaty.	377
	Mr. Dawson to Mr. Knox (telegram).	Mar. 16	Same subject. Says agitation against treaty dying down and hopes for ratification.	378
	Mr. Knox to Mr. Dawson (telegram).	Mar. 17	Same subject. Instructs him to communicate to President Reyes department's cordial sympathy and confidence.	378
	Mr. Dawson to Mr. Knox (telegram).	Mar. 18	Same subject. Says Colombia objects to punctuation in art. 6.	378
	Mr. Knox to Mr. Dawson (telegram).	Mar. 19	Same subject. Says punctuation in art. 6 of treaty was mistake and interprets provision regarding Colombian ports.	378
	Memorandum.....	do.....	Same subject. Says punctuation in art. 6 of canal treaty was a mistake and explains certain provisions as to ports.	379
	Mr. Knox to Mr. Dawson (telegram).	do.....	Same subject. Expresses hope that difficulty of defining Jurado will not interfere with ratification of treaty.	379
	Mr. Knox to Mr. Cortes.....	do.....	Same subject. Says placing of comma in art. 6 was a mistake and interprets certain language regarding ports.	380
82	Same to same.....	Mar. 22	Same subject. Expresses hope that ratification of treaty will not meet with untoward delay.	381
59	Mr. Cortes to Mr. Knox.....	do.....	Same subject. Expresses appreciation of explanation concerning certain points in treaty to which Colombia objected.	381
	Mr. Dawson to Mr. Knox (telegram).	Mar. 23	Same subject. Asks department's opinion relative to limitations of Jurado River.	382
62	Mr. Cortes to Mr. Knox....	Mar. 24	Same subject. Transmits copy of message of President of Colombia to National Assembly relative to treaty.	382
	Mr. Dawson to Mr. Knox (telegram).	Mar. 26	Same subject. Reports exchange of notes relative to change of punctuation in treaty.	384
	Same to same (telegram)....	Mar. 27	Same subject. Reports consideration of treaty postponed on account of threats of violence.	384
247	Same to same.....	Mar. 29	Same subject. Reports relative to demonstrations against ratification of treaty.	384
84	Mr. Wilson to Dawson.....	Apr. 6	Same subject. Directs expression of appreciation of kindly sentiment expressed in message of President.	393
87	Mr. Knox to Mr. Dawson...	Apr. 19	Same subject. Transmits copies of notes exchanged between Colombian and Panamanian ministers at Washington regarding the "region of Jurado."	393
89	Mr. Wilson to Mr. Hibben..	May 4	Same subject. Commends report regarding conditions at Bogota.	394
	Mr. Hibben to Mr. Knox (telegram).	May 10	Same subject. Reports issuance of manifesto by President regarding postponing consideration of treaty.	394
262	Same to same.....	May 13	Same subject. Transmits copy of manifesto postponing discussion of treaty.	394
268	Same to same.....	May 27	Same subject. Says the words "región de Jurado" in treaty have created erroneous impression.	398
	Mr. Wilson to Mr. Hibben (telegram).	June 11	Same subject. Says United States views with relative indifference ratification of treaty—Panama and Colombia being the chief beneficiaries.	398
	Mr. Northcott to Mr. Knox (telegram).	Sept. 29	Same subject. Says Colombia desires to abandon present treaty and negotiate new one.	399
12	Same to same.....	Oct. 1	Same subject. Reports interview with minister for foreign affairs relative to making a new treaty.	399
	Mr. Adee to Mr. Northcott (telegram).	Oct. 4	Same subject. Says department can not consider making new treaty.	402
14	Mr. Northcott to Mr. Knox.	Oct. 7	Same subject. Transmits copy of note from foreign office relating to negotiations.	402
	Same to same (telegram)...	Oct. 13	Same subject. Says Colombia desires to make separate treaty regarding canal and asks instructions relative thereto.	403
	Mr. Adee to Mr. Northcott (telegram).	Oct. 23	Same subject. Says United States can not enter upon separate treaty negotiations with Colombia and must refuse to wipe out tripartite treaty.	404
15	Mr. Wilson to Mr. Northcott.	Oct. 28	Same subject. Department approves action in refusing to sign with Colombia memorandum regarding new treaty negotiations.	404
20	Mr. Northcott to Mr. Knox.	Oct. 29	Same subject. Transmits copy of note to foreign office relative to proposed negotiations for new treaty.	405
17	Mr. Knox to Mr. Northcott.	Nov. 4	Same subject. Refers to Oct. 4 and 23 as defining department's attitude regarding proposed treaty between United States and Colombia.	406

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No.	From and to whom.	Date.	Subject.	Page.
	Mr. Northcott to Mr. Knox (telegram).	1910. Jan. 5	Same subject. Colombian Government asks if United States and Panama would agree to submit question of Panama's separation to vote of citizens of Panama.	406
53	Same to same.....	Feb. 18	Same subject. Asks instructions regarding reply to Colombia's proposal to submit question of Panama's separation to a vote.	407
	Mr. Wilson to Mr. Northcott (telegram).	Mar. 24	Same subject. Says department's June 11, 1909, outlines attitude as to treaty and remains unchanged.	407
68	Mr. Northcott to Mr. Knox.	Apr. 19	Boundary dispute between Ecuador and Peru. Transmits copy of convention for the arbitration of differences between Peru and Colombia.	446
81	Same to same.....	May 13	Treaties between the United States and Panama and the Republic of Colombia relating to the Panama Canal. Transmits note from foreign office dealing with treaties, and legation's reply thereto.	407
	Mr. Borda to Mr. Knox.....	June —	Boundary dispute between Ecuador and Peru. Expresses desire of Colombian Government to participate in conferences.	477
7	Mr. Knox to Mr. Borda.....	June 25	Same subject. Says department will give consideration to Colombia's desire to participate in conferences.	478
	Mr. Knox to Mr. Northcott.	Oct. 26	International Prize Court and Court of Arbitral Justice. (Same mutatis mutandis, as Oct. 26, 1910, to Rome.)	634
	Same to same.....	Dec. 17	Same subject. (Same mutatis mutandis, as Dec. 17, 1910, to Bolivia.)	638

COSTA RICA.

	Mr. Anderson to Mr. Root..	1907. Dec. 9	Convention for the settlement of the boundary dispute between Costa Rica and Panama. Requests good offices of United States.	772
	Mr. Bacon to Mr. Anderson.	Dec. 19	Same subject. Says department will confer with Panama regarding arbitration of dispute.	773
	Mr. Anderson to Mr. Root..	1908. Nov. 21	Same subject. Renews request for good offices.....	774
	Mr. Adee to Mr. Anderson..	Dec. 1	Same subject. Says department will cheerfully exercise good offices.	775
	Mr. Bacon to Mr. Anderson.	Dec. 26	Same subject. Department is informed that Panama accepts in principle submission of dispute to arbitration.	776
	Mr. Anderson to Mr. Root..	Dec. 28	Same subject. States points in boundary dispute which Costa Rica desires to submit to new arbitration.	777
	Mr. Adee to Mr. Anderson.	1909. Jan. 6	Same subject. Says questions which Costa Rica desires to submit to new arbitration will be sent to Panama.	779
	Mr. Bacon to Mr. Anderson.	Feb. 16	Same subject. Says in order to safeguard rights of its citizens the United States earnestly hopes for a settlement of the dispute.	782
	Mr. Anderson to Mr. Bacon.	Feb. 23	Same subject. Gives views of Costa Rica regarding settlement of dispute.	783
	Mr. Calvo to Mr. Knox.....	Oct. 14	Same subject. Says Mr. Anderson has been appointed Costa Rican special envoy in boundary negotiations.	793
	Mr. Anderson to Mr. Knox.	Oct. 16	Same subject. Says Costa Rica will again resort to good offices of United States for settlement of boundary dispute.	793
835	Mr. Adee to Mr. Anderson.	Oct. 18	Same subject. Renews proffer of good offices.....	794
	Mr. Wilson to Mr. Calvo.....	do.....	Same subject. Says department will be glad to receive Costa Rican special envoy.	795
	Mr. Anderson to Mr. Knox.....	do.....	Same subject. Says Costa Rica is willing to submit dispute to American arbitrator.	795
	Mr. Knox to Mr. Anderson.	Dec. 4	Same subject. (Same as Dec. 4, 1909, to Panaman minister.)	800
	Mr. Anderson to Mr. Knox.	Dec. 6	Same subject. Says Costa Rican Government will take part in conference suggested by department.	801
93	Mr. Knox to Mr. Anderson.	Dec. 16	Same subject. Says Panaman minister has been informed that Costa Rican Government agrees to conference.	803
	Mr. Knox to Mr. Anderson.	1910. Feb. 2	Same subject. (Same as Feb. 2, 1910, to Panaman legation.)	804
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		1910		
	Mr. Anderson to Mr. Knox.	Mar. 14	Same subject. Refers to draft boundary convention and to objections which exist in Loubet award.	815
	Mr. Knox to Mr. Guardia (telegram).	Mar. 18	Same subject. Says convention was signed by representatives of both countries on 17th.	816
	Mr. Guardia to Mr. Knox (telegram).	Mar. 19	Same subject. Expresses appreciation of good offices.	817
	Mr. Anderson to Mr. Knox.	...do....	Same subject. Expresses appreciation and says signing of convention removes only source of difference between the two countries.	817
	Mr. Knox to Mr. Anderson.	Mar. 23	Same subject. Says department appreciates kindly expressions relative to mediation.	818
	Mr. Guardia to Mr. Knox (telegram).	Apr. 8	Same subject. Says convention approved by Costa Rican President and expresses thanks for good offices.	819
	Mr. Knox to Mr. Guardia (telegram).	Apr. 9	Same subject. Says telegram of 8th received with pleasure.	819
	Mr. Monroe to Mr. Knox (telegram).	Apr. 15	Earthquakes in Costa Rica. Says earthquakes have continued for 60 hours.	409
1483	Same to same.	Apr. 16	Same subject. Reports regarding earthquakes.	409
	Mr. Knox to the president of the Cartago court (telegram).	May 3	Revolution in Nicaragua. Congratulates court on occasion of mediation offer in Nicaragua.	744
	Mr. Monroe to Mr. Knox (telegram).	May 5	Earthquake in Costa Rica. Reports destruction of Cartago.	409
	Mr. Knox to Mr. Monroe (telegram).	May 6	Same subject. Directs legation to express sympathy.	409
	President Taft to President Viquez.	...do....	Same subject. Expresses sympathy.	410
	Mr. Monroe to Mr. Knox (telegram).	...do....	Same subject. Says Cartago catastrophe very bad and that Costa Rica needs assistance.	410
	Mr. Wilson to Mr. Monroe (telegram).	...do....	Same subject. Instructs him to draw on department up to \$5,000 for relief of sufferers.	410
	Mr. Calvo to Mr. Knox.	...do....	Same subject. Requests department to inform Mr. Carnegie of destruction of Central American court of justice.	410
	President Viquez to President Taft.	May 7-8	Same subject. Expresses gratitude for President's sympathetic message.	411
1485	Mr. Monroe to Mr. Knox.	May 9	Same subject. Reports regarding conditions in Cartago.	411
	President of Cartago Court to Mr. Knox (telegram).	May 11	Revolution in Nicaragua. Expresses appreciation for congratulations.	744
96	Mr. Knox to Mr. Calvo.	...do....	Earthquakes in Costa Rica. Extends sympathy to Costa Rica and says copy of legation's note has been sent to Mr. Carnegie.	412
1487	Mr. Monroe to Mr. Knox.	May 12	Same subject. Reports relative to expenditure of money for relief of earthquake sufferers.	412
	Same to same (telegram).	May 14	Same subject. Reports concerning earthquake victims and expenditure of Red Cross funds.	413
	Mr. Wilson to Mr. Monroe (telegram).	May 17	Same subject. Says Red Cross will spend \$25,000 for shelters, and instructs legation to make suggestions as to material, etc.	413
	Mr. Monroe to Mr. Knox (telegram).	May 18	Same subject. Makes suggestions for houses to be erected by Red Cross.	413
	Same to same (telegram).	May 24	Same subject. Reports as to expenditure of Red Cross contribution.	413
	Mr. Wilson to Mr. Monroe (telegram).	May 25	Same subject. States that Red Cross has shipped material for 35 houses.	414
	Mr. Calvo to Mr. Knox.	...do....	Same subject. Expresses thanks of his Government.	414
	Mr. Knox to Mr. Calvo.	June 8	Same subject. Acknowledges note expressing thanks.	414
	Mr. Martin to Mr. Knox (telegram).	June 23	Revolution in Nicaragua. Says Cartago court of justice will insist upon peace in Nicaragua.	754
	Mr. Knox to Mr. Merry (telegram).	June 25	Same subject. Transmits note for communication to Cartago court of justice requesting information as to court's views and bases for peace in Nicaragua.	755
	Mr. Merry to Mr. Knox (telegram).	Aug. 22	Convention for the settlement of the boundary dispute between Costa Rica and Panama. Reports approval of convention by Costa Rica.	819
		Sept. 27	Same subject. Text of convention.	820

CUBA.

		1910.		
40	Mr. Jackson to Mr. Knox.	Apr. 13	Jurisdiction over American citizens in the Isle of Pines. Asks instructions as to status of Americans settled in the Isle of Pines.	415
33	Mr. Wilson to Mr. Jackson.	May 3	Same subject. Says question of jurisdiction over Isle of Pines still pending in Senate.	415

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50	Mr. Knox to Mr. Jackson..	1910. May 23	Raising of the wreck of the U. S. S. Maine. Instructs him to obtain consent of Cuban Government.	417
127	Mr. Jackson to Mr. Knox..	June 1	Same subject. Says Cuba consents to raising of Maine.	418
68	Mr. Knox to Mr. Jackson..	June 21	Attitude of the United States concerning political disturbances in Cuba. Instructs legation as to department's attitude.	416
330	Mr. Jackson to Mr. Knox..	Sept. 9	Raising the wreck of the U. S. S. Maine. Reports feeling of satisfaction in Cuba that work is to begin.	418
	Mr. Knox to Mr. Jackson..	Oct. 26	International Prize Court and Court of Arbitral Justice. (Same mutatis mutandis, as Oct. 26, 1910, to Rome.)	634
	President Gomez to President Taft.	Dec. 6	Raising of the wreck of the U. S. S. Maine. Requests part of Maine to be erected as a monument in Cuba.	419
	Mr. Knox to Mr. Jackson..	Dec. 17	International Prize Court and Court of Arbitral Justice. (Same mutatis mutandis, as Dec. 17, 1910, to Bolivia.)	638
	President Taft to President Gomez.	Dec. 23	Raising of the wreck of the U. S. S. Maine. Says part of battleship will be sent to Cuba for monument.	419

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273	Mr. Wallace to Mr. Knox..	1910. Feb. 23	Commercial convention between Denmark and France. Transmits copy.	423
	Mr. Knox to Count Moltke.	Dec. 30	Expatriation act construed for purposes of immigration act. Transmits copies of opinion.	420

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ECUADOR.

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	Same to same (telegram)...	Apr. 1	Same subject. Says Ecuador will appoint representatives to meet with those of Peru.	441
605	Same to same.....	Apr. 2	Same subject. Transmits copies of notes exchanged with foreign office.	441
	Same to same (telegram)...	Apr. 3	Same subject. Transmits names of Ecuadorean representatives.	442
	Mr. Carbo to Mr. Knox.....	Apr. 6	Same subject. Says Government of Ecuador accepts United States proposal.	444
	Mr. Fox to Mr. Knox (telegram).	Apr. 11	Same subject. Reports rumors of mobilization of troops by Peru.	445
45	Mr. Wilson to Mr. Carbo...	Apr. 14	Same subject. Acknowledges notification of appointment of Ecuadorean representatives.	445
	Mr. Knox to Mr. Fox (telegram).	May 15	Same subject. Instructs legation to join colleagues in presenting joint note to Ecuador and to report when delivered.	452
	Mr. Fox to Mr. Knox (telegram).	May 16	Same subject. Asks for instructions regarding presentation of tripartite proposal.	453
	Mr. Knox to Mr. Fox (telegram).	May 17	Same subject. Instruction regarding presentation of joint note.	453
	Mr. Wilson to Mr. Fox (telegram).	May 18	Same subject. (Quotes telegram of this date to Lima.)	455
	Mr. Fox to Mr. Knox (telegram).	...do....	Same subject. Reports note delivered jointly with Brazilian colleague.	456
	Same to same (telegram)...	May 20	Same subject. Says King of Spain has been requested to defer decision.	456
	Mr. Carbo to Mr. Knox.....	May 23	Same subject. Says that Ecuador accepts mediation proposal and that the King of Spain will withhold his decision.	456
	Mr. Fox to Mr. Knox.....	May 24	Same subject. Says Ecuador's reply to joint note will be sent after conference with minister for foreign affairs.	458

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	Memorandum from the Ecuadorean legation.	May 26	Same subject. Protests against Peru's refusal to comply with art. 6 of arbitration convention.	460
	Mr. Fox to Mr. Knox (telegram).	...do....	Same subject. Says Ecuador will withdraw troops on day fixed by mediating powers.	460
	Mr. Knox to Mr. Fox (telegram).	...do....	Same subject. Instructs legation to report regarding steps taken by Ecuador for withdrawal of troops.	459
	Same to same (telegram)...	June 1	Same subject. Transmits aide-memoire regarding withdrawal of troops on June 4 for immediate communication to Ecuadorean Government.	464
	Aide-memoire to the Ecuadorean legation.	...do....	Same subject. Gives department's views regarding importance of withdrawal of troops on date agreed upon.	463
	Mr. Fox to Mr. Knox (telegram).	June 2	Same subject. Says Ecuador accepts mediation and congratulates mediating powers.	466
	Same to same (telegram)...	...do....	Same subject. Reports Ecuador willing to withdraw troops June 4, but wishes explanation of sending of additional troops by Peru.	465
	Mr. Knox to Mr. Fox (telegram).	...do....	Same subject. Repeats telegram regarding Peru's willingness to withdraw troops June 4, and says Ecuador should take similar action.	465
	Mr. Fox to Mr. Knox (telegram).	June 3	Same subject. Reports Ecuador withdrawing troops from frontier.	466
	Same to same (telegram)...	...do....	Same subject. Refers further as to withdrawal of troops by Ecuador.	467
	Mr. Carbo to Mr. Knox.....	June 4	Same subject. Transmits telegram regarding removal of troops from Ecuadorean frontier.	467
	Mr. Fox to Mr. Knox (telegram).	June 5	Same subject. Transmits note from foreign office regarding withdrawal of troops from border.	467
	Same to same (telegram)...	June 6	Same subject. Reports regarding decree issued by Ecuadorean Congress.	468
	Mr. Knox to Mr. Fox (telegram).	June 9	Same subject. Instructs legation to impress upon Ecuador position of mediating powers.	470
	Mr. Knox to Mr. Carbo.....	...do....	Same subject. (Same as June 9, 1910, to Chilean chargé).	469
	Same to same.....	June 11	Same subject. Acknowledges receipt of telegram regarding withdrawal of troops.	471
	Mr. Carbo to Mr. Knox.....	...do....	Same subject. Expresses gratitude for good offices in boundary dispute.	471
	Mr. Fox to Mr. Knox (telegram).	June 13	Same subject. Reports concern of Ecuador on account of warlike preparations of Peru.	472
	Same to same (telegram)...	June 14	Same subject. Says Ecuador complains that Peru is maintaining troops on border and augmenting forces in north.	472
	Mr. Wilson to Mr. Fox (telegram).	June 15	Same subject. (Same as June 15 to Lima).....	473
	Mr. Fox to Mr. Knox, (telegram).	June 17	Same subject. Transmits note from foreign office regarding withdrawal of troops from frontier.	473
	Same to same (telegram)...	June 20	Same subject. Reports regarding withdrawal of troops by Ecuador and alleged activity of Peru.	475
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	Mr. Fox to Mr. Knox (telegram).	July 14	Same subject. Says minister for foreign affairs reports much unrest in Ecuador.	485

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No.	From and to whom.	Date.	Subject.	Page.
		1910.		
	Marquis di Montagliari to Mr. Knox (telegram).	June 27	Same subject. Requests that preliminary mandate be forwarded at once.	650
864	Mr. Knox to Marquis di Montagliari.	June 28	Same subject. Transmits preliminary mandate and explains its purpose.	651
1074	Marquis di Montagliari to Mr. Knox.	July 1	Same subject. Asks provisional detention until receipt of extradition papers.	651
865	Mr. Wilson to Marquis di Montagliari.	July 2	Functions of consular officers concerning wills. Informs him concerning duty of consuls in connection with the drawing of wills.	676
131	Marquis di Montagliari to Mr. Knox.	July 12	Extradition of Porter Charlton, an American citizen, from the United States to Italy. Transmits copy of warrant of arrest.	652
869	Mr. Wilson to Marquis di Montagliari.	July 22	Same subject. Returns copy of warrant of arrest and says all papers should be sent to the court.	652
1229	Marquis di Montagliari to Mr. Knox.	July 28	Same subject. Transmits record of proceedings of court of Como.	652
	Mr. Wilson to Marquis di Montagliari.	Aug. 5	Same subject. Returns papers and says matter is in hands of court to which all documents should be sent.	653
891	Mr. Adee to Baron Mayor...	Oct. 1	Alleged discrimination against Italian subjects by courts of Pennsylvania. Gives views of department regarding right of nonresident aliens to recover indemnity for death of relatives.	664
	Mr. Knox to Mr. Garrett...	Oct. 26	International Prize Court and Court of Arbitral Justice. Communicates views regarding establishment of the prize court with instructions to lay them before the Italian Government.	634
	Same to same.....	Dec. 7	Joint International Commission for the Investigation of the Opium Question in the Far East. (Same as instruction of Dec. 7 to China.)	325
		Dec. 9	Extradition of Porter Charlton, an American citizen, from the United States to Italy. Memorandum by the Secretary of State.	654
	Mr. Knox to Marquis Cusani Confalonieri.	Dec. 10	Same subject. Transmits warrant of surrender.....	657
	Mr. Knox to Mr. Garrett...	Dec. 29	Joint International Commission for the Investigation of the Opium Question in the Far East. (Same as Dec. 29, 1910, to Peking.)	327

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	Mr. Knox to Mr. O'Brien...	Nov. 3	International Prize Court and Court of Arbitral Justice. See Nov. 3, 1909, Vienna.	597
	Same to same (telegram)...	Dec. 14	Proposal for the neutralization of railways in Manchuria. Communicate to foreign office substance of memorandum to British Government.	236
	Mr. Wilson to Mr. O'Brien (telegram).	Dec. 15	Same subject. Says United States desires support of Japan.	237
927	Mr. O'Brien to Mr. Knox...	Dec. 19	Same subject. Transmits copy of note to foreign office.	237
	Same to same (telegram)...	1910.		
	Mr. Knox to Mr. O'Brien (telegram).	Jan. 8	Same subject. Is informed indirectly that Japan will not approve proposal.	245
	Mr. O'Brien to Mr. Knox...	Jan. 20	Same subject. Outlines scope of project to be communicated to Japan.	246
978	Same to same.....	Jan. 24	Same subject. Incloses note from foreign office.....	250
1057		Feb. 22	Joint International Commission for the Investigation of the Opium Question in the Far East. Transmits note from foreign office stating that Japan will require more time to consider program.	300
1069	Same to same.....	Mar. 4	Proposal for the neutralization of railways in Manchuria. Transmits note from foreign office.	263
416	Mr. Wilson to Mr. O'Brien.	Apr. 2	Joint International Commission for the Investigation of the Opium Question in the Far East. Says United States appreciates attitude of Japan.	304
1160	Mr. O'Brien to Mr. Knox...	May 10	International Prize Court and Court of Arbitral Justice. Transmits copy of note from foreign office.	625
	Baron Uchida to Mr. Knox.	July 5	Agreement between Japan and Russia relative to Manchuria. Transmits telegram from his Government regarding agreement.	836
444	Mr. Wilson to Mr. O'Brien.	July 6	International Prize Court and Court of Arbitral Justice. Transmits draft of memorandum to be communicated to foreign office.	632
1191	Mr. O'Brien to Mr. Knox...	July 13	Administration of affairs in Korea. Transmits copy of memorandum regarding transfer of Korean police affairs to Japanese Government.	677

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134	Mr. Wilson to Baron Uchida	1910. July 30	Agreement between Japan and Russia relative to Manchuria. Acknowledges copy of agreement.	837
	Mr. O'Brien to Mr. Knox (telegram).	Aug. 19	International Prize Court and Court of Arbitral Justice. Asks regarding rights of Japan under proposed additional protocol.	633
	Mr. Wilson to Mr. O'Brien (telegram).	Aug. 24	Same subject. Expresses hope that Japan will approve protocol.	633
	Baron Uchida to Mr. Wilson	...do....	Administration of affairs in Korea. Transmits communication regarding protection of inventions, trade-marks, etc., in Korea.	681
	Same to same	...do....	Same subject. Transmits copy of treaty annexing Korea to the Empire of Japan.	681
	Mr. O'Brien to Mr. Knox (telegram).	Aug. 25	Same subject. Reports regarding treaty annexing Korea to Japanese Empire.	683
	Mr. Wilson to Baron Uchida	Sept. 17	Same subject. Says department appreciates assurances given regarding foreigners and foreign trade in Korea.	683
1228	Mr. O'Brien to Mr. Knox..	Sept. 19	Same subject. Transmits copies of certain imperial ordinances in connection with the annexation of Korea.	683
466	Mr. Knox to Mr. Schuyler..	Oct. 26	International Prize Court and Court of Arbitral Justice. Says Department is gratified to learn that Japan will sign prize court protocol.	637
	Mr. Schuyler to Mr. Knox (telegram).	Nov. 15	Joint International Commission for the Investigation of the Opium Question in the Far East. Says Japan has no objection to substance of British proposals regarding morphine and cocaine.	321
1260	Same to same	Nov. 16	Same subject. Transmits note from foreign office giving views.	321
	Mr. Knox to Mr. Schuyler (telegram).	Nov. 17	Same subject. Express appreciation of Japan's attitude.	322
	Same to same	Dec. 7	Same subject. (Same as instruction of Dec. 7 to China.)	325
483	Same to same	Dec. 22	Same subject. Says United States appreciates desire of Japan to reserve its views until convening of conference.	326
	Same to same	Dec. 29	Same subject. (Same as Dec. 29, 1910, to Peking)....	327

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222	Mr. Lyon to Mr. Root.....	1908. Jan. 28	Affairs in Liberia. Reports appointment of a commission to visit United States.	694
	Same to same	Apr. 16	Same subject. Says Liberian commission will leave for the United States on the 17th instant.	694
232	Messrs. Gibson, Dossin, and Dunbar to Mr. Root.	May 22	Same subject. Asks when Liberian commission will be received by Secretary.	694
	Mr. Root to Messrs. Gibson, Dossin, and Dunbar.	May 23	Same subject. Says he will receive commission on 26th instant.	694
714	Mr. Root to Mr. Reid.....	June 13	Same subject. Transmits communication from Liberian commission seeking Great Britain's co-operation in perpetuity of Liberia.	695
	Mr. Root to Mr. Lyon.....	June 18	Same subject. Transmits copies of correspondence from Liberian commission asking United States to invite Great Britain's cooperation in promoting Liberia's welfare.	695
668	Mr. Reid to Mr. Root.....	July 25	Same subject. Transmits note from British foreign office on subject.	697
	Mr. Root to President Roosevelt.	1909. Jan. 18	Same subject. Refers to conditions in Liberia and advises appointment of an American commission with a view to recommending measures of relief.	699
	Mr. Bacon to Mr. Lyon (telegram).	Feb. 18	Same subject. Says United States will send commission to Liberia to investigate conditions and recommend relief measures.	701
	Mr. Knox to the American commissioners.	Apr. 13	Same subject. Instructs commission to proceed to Liberia and investigate situation with a view to recommending the most effective measures of relief.	705
	Mr. Knox to the Liberian minister for foreign affairs.	Apr. 23	Same subject. Informs him of appointment of an American commission to visit Liberia with a view to recommending measures of relief.	708
	Mr. Wilson to Mr. Lyon....	1910. Mar. 19	Same subject. Transmits copy of report of American commission to Liberia and says he may informally make known to Liberian Government nature of the commission's recommendations.	704
	Vice President of Liberia to President Taft (telegram).	Mar. 21	Same subject. Says Liberian public grateful for assistance of the United States.	705

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	Mr. Diaz to Mr. Taft.....	1909. Dec. 31	Revolution in Nicaragua. Says new ambassador will express gratification of Mexican Government for attitude of United States toward asylum afforded Zelaya on board Mexican gunboat.	739
	Mr. Taft to Mr. Diaz.....	1910. Feb. 5	Same subject. Expresses appreciation and says attitude of the United States toward granting refuge to Zelaya will be communicated to the Mexican Government by the American embassy.	740
840	Mr. Knox to Mr. Bailey.....	...do....	Same subject. Transmits for delivery to foreign office letter of President Taft and memorandum relative to asylum afforded Zelaya.	741
522B	Mr. de la Barra to Mr. Knox.	Mar. 2	Authentication of extradition papers by consular officers. Suggests exchange of notes on subject.	731
208	Mr. Knox to Mr. de la Barra.	Mar. 22	The Chamizal arbitration. Refers to previous negotiations and outlines arbitration proposals.	716
	Mr. Gamboa to Mr. Knox...	Apr. 12	Celebration of the first Mexican centennial. Invites United States to participate.	712
216	Mr. Knox to Mr. de la Barra.	Apr. 13	Authentication of extradition papers by consular officers. Says department considers the proposed exchange of notes inadvisable.	731
42	Mr. Wilson to Mr. Knox....	Apr. 15	Extradition of Heliodoro Garcia from Mexico. Says request for extradition has been made.	723
153	Mr. de la Barra to Mr. Knox.	Apr. 16	The Chamizal arbitration. Says proposals in department's note of 22d ultimo will be given early consideration.	719
	Mr. Wilson to Mr. Knox (telegram).	Apr. 29	Extradition of Heliodoro Garcia from Mexico. Reports arrest of Garcia and says detention period dates from 23d.	723
	Note Verbale to the Mexican Embassy.	May 14	The Chamizal arbitration. Urges early consideration.	719
	Mr. Knox to Mr. Wilson (telegram).	June 1	Extradition of Heliodoro Garcia from Mexico. Says California authorities ask provisional arrest and detention of Garcia on new charge.	723
86	Mr. Wilson to Mr. Knox...	June 8	Same subject. Transmits copies of correspondence with foreign office.	724
	Memorandum from the Mexican Embassy.	June 9	The Chamizal arbitration. Transmits note and requests draft of convention.	720
366	Mr. de la Barra to Mr. Knox.	...do....	Same subject. Accepts arbitration proposal.....	720
	Mr. Diaz to Mr. Taft (telegram).	June 16	Revolution in Nicaragua. Transmits text of communication from President Madriz protesting against action of American forces in Nicaragua.	752
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	Mr. Taft to Mr. Diaz (telegram).	June 19	Revolution in Nicaragua. Communicates text of statement to Madriz and Estrada regarding policy of the United States in Nicaragua.	754
	Mr. Wilson to Mr. Knox (telegram).	June 21	Extradition of Heliodoro Garcia from Mexico. Reports request of foreign office for proof in case.	725
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261	Mr. Knox to Mr. de la Barra	June 27	The Chamizal arbitration. Incloses copies of instruction to Mr. Keblinger, American commissioner on the commission for the study of the equitable distribution of the waters of the Rio Grande and Colorado Rivers.	722
61	Mr. Wilson to Mr. Wilson..	June 28	Extradition of Heliodoro Garcia from Mexico. Expresses department's views relative to detention period.	727
265	Mr. Wilson to Mr. de la Barra.	June 29	Celebration of the first Mexican centennial. Accepts invitation and names representatives.	712
1	Mr. de la Barra to Mr. Knox.	July 1	Same subject. Says contents of department's June 29 have been communicated to his Government.	713
	Mr. Wilson to Mr. de la Barra.	July 6	Same subject. Acknowledges note relative to personnel of special commission.	714
26	Mr. de la Barra to Mr. Knox.	July 11	Same subject. Communicates information concerning reception of special representatives.	714
	Mr. Wilson to Mr. Knox (telegram).	July 14	Extradition of Heliodoro Garcia from Mexico. Foreign office says impossible to hold Garcia beyond expiration of second detention period.	727

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	Mr. Wilson to Mr. de la Barra.	Aug. 6	Celebration of the first Mexican centennial. Transmits information regarding personnel of American Commission.	714
194	Mr. Wilson to Mr. Knox...	Sept. 20	Message of the President of Mexico to the Mexican Congress. Transmits copy.	729
	Mr. Knox to Mr. Wilson...	Oct. 26	International Prize Court and Court of Arbitral Justice. (Same, mutatis mutandis, as Oct. 26, 1910, to Rome.)	634
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	Mr. Diaz to Mr. Taft.....	Dec. 8	Celebration of the first Mexican centennial. Says Mexico will send special ambassador to thank the United States for its participation.	715
297	Mr. Wilson to Mr. Knox...	Dec. 13	Same subject. Reports appointment of Hon. Joaquim Casaus as special ambassador to thank United States.	716

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241	Mr. Dodge to Mr. Knox....	Apr. 11	Same subject. Says governor of Mequinez has been ordered by the Sultan to grant house to missionaries.	735
	Mr. Knox to Mr. Dodge....	Apr. 29	Same subject. Expresses gratification at result of efforts.	735

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	Mr. Knox to Mr. Beaupré..	1909. Nov. 3	International Prize Court and Court of Arbitral Justice. See Nov. 3, 1909, to Vienna.	597
285	Mr. Beaupré to Mr. Knox..	1910. Jan. 25	Joint International Commission for the Investigation of the Opium Question in the Far East. Incloses note from foreign office making inquiry regarding conference.	293
110	Mr. Knox to Mr. Beaupré..	Feb. 16	Same subject. Explains intention of "preliminary discussion."	297
	Mr. Beaupré to Mr. Knox (telegram).	Mar. 31	Transit of fugitive from justice in course of extradition proceedings between Luxemburg and the United States. Reports arrest by Luxemburg Government of Nicholas Knepper.	81
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	Mr. Wilson to Mr. Beaupré (telegram).	...do.....	Transit of fugitive from justice in course of extradition proceedings between Luxemburg and the United States. Says Knepper extradition papers will be forwarded.	82
	Mr. Beaupré to Mr. Knox (telegram).	Apr. 11	Same subject. Asks if permission has been obtained from Belgium for transit of fugitive.	82
	Mr. Hale to Mr. Beaupré (telegram).	Apr. 12	Same subject. Cooperate with legation at Brussels to secure permission for transit.	82
19	Mr. Beaupré to Mr. Knox..	Apr. 16	Same subject. Transmits report and correspondence relative to transit of fugitive through Belgian or other territory.	83
	Mr. Adee to Mr. Beaupré (telegram).	...do.....	Same subject. Says German Government will be requested to permit transit of fugitive.	83
	Mr. Beaupré to Mr. Knox (telegram).	...do.....	Same subject. Says Belgium authorities require full extradition formalities for transit of prisoner and asks if he may be returned through German territory.	82

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350	Mr. Beaupré to Mr. Knox...	Apr. 23	International Prize Court and Court of Arbitral Justice. Transmits copy of note to foreign office regarding proposed circular note to the signatories of the prize court convention.	620
353	Same to same.....	May 3	Same subject. Transmits correspondence exchanged with foreign office relative to proposed circular note.	622
	Same to same (telegram)...	May 7	Transit of fugitive from justice in course of extradition proceedings between Luxemburg and the United States. Says Luxemburg may be willing to grant extradition if United States will guarantee to grant same request to Luxemburg in analogous case.	87
	Mr. Wilson to Mr. Beaupré (telegram).	May 9	Same subject. Says department feels certain that United States could surrender to Luxemburg fugitive under similar conditions.	88
21	Mr. Beaupré to Mr. Knox...	May 12	Same subject. Incloses note from foreign office stating that extradition should be refused on the ground that offense is not within scope of extradition treaty with United States.	88
366	Same to same.....	May 13	International Prize Court and Court of Arbitral Justice. Transmits note from foreign office regarding date for signature of additional protocol.	626
	Mr. Knox to Mr. Beaupré (telegram).	May 14	Same subject. Says date set by Netherlands for signature of additional protocol is satisfactory.	627
370	Mr. Beaupré to Mr. Knox...	May 16	Same subject. Transmits note from foreign office communicating views as to date for signature of protocol, etc.	628
378	Same to same.....	May 31	Same subject. Transmits note from foreign office stating that circular note was sent Oct. 24.	629
459	Memorandum from the Netherlands Legation.	June 2	Extradition procedure—expenses. Asks regarding expenses of fugitives from the United States to the Netherlands.	736
	Mr. Wilson to Mr. Beaupré (telegram).	June 13	Transit of fugitive from justice in course of extradition proceedings between Luxemburg and the United States. Withdraw request for extradition of Knepper.	91
28	Mr. Beaupré to Mr. Knox...	June 20	Same subject. Reports withdrawal of application for extradition and incloses copy of extradition law of Grand Duchy.	91
74	Mr. Wilson to Jonkeer van Weede.	July 9	Extradition procedure—expenses. Informs him regarding expenses in extradition cases.	736
	Mr. Wilson to Mr. Beaupré (telegram).	July 14	Joint International Commission for the Investigation of the Opium Question in the Far East. Directed to ascertain if Sept. 15 will be satisfactory for meeting of conference.	308
399	Mr. Beaupré to Mr. Knox...	...do....	International Prize Court and Court of Arbitral Justice. Reports interview with foreign office relative to adoption of protocol by the powers.	632
	Same to same (telegram)...	July 19	Joint International Commission for the Investigation of the Opium Question in the Far East. Says Sept. 15 is satisfactory to Netherlands and asks names of Governments adhering.	309
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78	Mr. Wilson to Mr. de Weede	July 29	Same subject. Accepts invitation to participate....	309
	Mr. Loudon to Mr. Knox (telegram).	Aug. 6	Same subject. Says the Netherlands Government will propose later date for conference.	311
83	Mr. Wilson to Mr. Loudon.	Aug. 10	Same subject. Says date of convening conference is left to Netherlands Government.	311
168	Mr. Adeë to Mr. Beaupré ..	Sept. 27	Same subject. Transmits copy of dispatch from London relative to British participation.	315
437	Mr. Hibben to Mr. Knox...	Nov. 2	Same subject. Transmits note from foreign office fixing May 30, 1911, as date of meeting.	318
	Mr. Adeë to Mr. Hibben...	Nov. 10	International Prize Court and Court of Arbitral Justice. Transmits copy of identic instruction to diplomatic officers accredited to countries signatory to prize court convention who did not sign additional protocol.	638
	Mr. Hibben to Mr. Knox (telegram).	...do....	Joint International Commission for the Investigation of the Opium Question in the Far East. Says British conditions as to preliminary study not included in invitation but will be embodied in supplementary note.	320
	Mr. Knox to Mr. Beaupré (telegram).	Nov. 12	Same subject. Says British Government considers study of opium and cocaine questions necessary before opening the conference.	320
1022	Mr. Loudon to Mr. Knox...	Nov. 16	Same subject. Asks if May 11, 1911, will be satisfactory.	321

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100	Mr. Knox to Mr. Loudon...	Nov. 26	Same subject. Says date proposed for meeting of conference is satisfactory to the United States.	324
174	Mr. Knox to Mr. Hibben...	Dec. 17	International Prize Court and Court of Arbitral Justice. Inform foreign office that diplomatic officers in Latin-American countries have been instructed to use good offices to obtain ratification of prize court protocol.	639
	Mr. Knox to Mr. Beaupré...	Dec. 29	Joint International Commission for the Investigation of the Opium Question in the Far East. (Same as Dec. 29, 1910, to Peking.)	327

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264	Mr. Caldera to Mr. Knox...	Dec. 26	Revolution in Nicaragua. Reports inauguration of President Madriz and departure of ex-President Zelaya.	738
	Mr. Moffatt to Mr. Knox (telegram).	Dec. 27	Same subject. Reports hostile attitude of Estrada toward new Government.	738
	Same to same (telegram)...	Dec. 30	Same subject. Reports desire of revolutionary generals to send peace commissioner to Managua and asks courtesy of naval vessel to transport him.	739
		1910.		
	Mr. Knox to Mr. Moffatt (telegram).	Jan. 3	Same subject. Says naval vessel will be placed at disposal of peace representatives.	740
	Mr. Moffatt to Mr. Knox (telegram).	Mar. 3	Same subject. Reports regarding peace terms agreed upon by revolutionary leaders.	742
	Mr. Knox to Mr. Moffatt (telegram).	Mar. 8	Same subject. Inform revolutionary leaders that this Government is not disposed to make suggestions in response to unilateral representation.	743
	Mr. Moffatt to Mr. Knox (telegram).	Mar. 9	Same subject. Says telegram of Mar. 8 has been communicated to Gen. Estrada.	743
	Mr. Wilson to Mr. Caldera (telegram).	Mar. 14	Same subject. Transmits statement given to press regarding removal of marines and attitude of United States regarding recognition of Government of Nicaragua.	743
	Mr. Wilson to Mr. Moffatt (telegram).	...do....	Same subject. (Same as Mar. 14 to Managua).....	743
	Mr. Moffatt to Mr. Knox (telegram).	Apr. 28	Same subject. Transmits communication from Cartago court of justice to leaders in Nicaragua offering mediation.	744
142	Same to same.....	May 17	Same subject. Transmits text of demand of commander of Nicaraguan warship upon revolutionary leader Estrada.	745
	Same to same (telegram)...	...do....	Same subject. Reports regarding threatened bombardment by Nicaraguan warship.	745
143	Same to same.....	...do....	Same subject. Transmits reply of Gen. Estrada to demand of commander of Nicaraguan warship.	746
	Mr. Knox to Mr. Olivares (telegram).	May 19	Same subject. Transmits paraphrase of instruction to Commander Gilmer regarding views of United States as to blockade and right of search on high seas.	746
	Mr. Olivares to Mr. Knox (telegram).	May 20	Same subject. Says Madriz maintains that his vessel sailed from United States port under proper circumstances.	747
314	Same to same.....	May 23	Same subject. Reports further regarding voyage of the Venus.	747
157	Mr. Moffat to Mr. Knox....	May 31	Same subject. Transmits communication from commander of Nicaraguan warship to Madriz officials relative to their intentions as to port of Bluefields and its commerce.	748
159	Same to same.....	...do....	Same subject. Communicates text of order issued by Estrada concerning threatened bombardment.	749
	Mr. Wilson to Mr. Moffat (telegram).	...do....	Same subject. Transmits text of instructions to Commander Gilmer regarding conditions in Nicaragua.	750
	Mr. Moffat to Mr. Knox (telegram).	June 3	Same subject. Transmits text of message of Gen. Estrada to president of Cartago Court of Justice.	750
	Same to same (telegram)...	June 7	Same subject. Transmits reply of president of Court of Cartago to Gen. Estrada.	750
	President Madriz to President Taft (telegram).	June 13	Same subject. Protests against instructions given American naval forces relative to Bluefields blockade.	751
	Mr. Knox to Mr. Olivares (telegram).	June 19	Same subject. Instructed to communicate to Estrada faction and make public statement to Dr. Madriz regarding attitude toward Bluefields blockade.	753

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	Mr. Moffat to Mr. Knox (telegram).	June 23	Same subject. Transmits text of communication from the president of the Cartago Court of Justice to Gen. Estrada.	754
	Same to same (telegram)...	June 24	Same subject. Transmits text of reply of Gen. Estrada to president of Cartago Court of Justice.	755
	Same to same.....	July 10	Same subject. Says factions in Nicaragua have not interfered with merchandise shipped from Bluefields.	756
	Mr. Olivares to Mr. Knox (telegram).	Aug. 19	Same subject. Reports regarding revolutionary conditions.	758
	Same to same (telegram)...	...do....	Same subject. Reports hostile feeling in Managua toward Americans.	758
	Mr. Moffat to Mr. Knox (telegram).	Aug. 20	Same subject. Reports defeat of Madriz forces.....	758
	Mr. Olivares to Mr. Knox (telegram).	...do....	Same subject. Says Madriz has deposited presidency in Estrada and transmits text of manifesto issued by latter.	759
	Same to same (telegram)...	Aug. 21	Same subject. Says revolutionary forces have entered Managua without opposition and transmits text of decree issued by Estrada.	759
	Gen. Estrada to Mr. Knox (telegram).	Aug. 23	Same subject. Says new president assures American people of warm regard and expresses desire to make restitution for losses suffered.	760
	Mr. Olivares to Mr. Knox (telegram).	Aug. 24	Same subject. Reports failure of peace commission to negotiate terms.	760
	Same to same (telegram)...	Aug. 28	Same subject. Reports arrival of Generals Estrada and Chamorro.	761
	Mr. Castrillo to Mr. Knox..	Sept. 12	Same subject. Seeks recognition of provisional government in Nicaragua and incloses communication from Provisional President Estrada.	762
	Mr. Wilson to Mr. Castrillo.	Sept. 14	Same subject. Says department will give consideration to suggestion regarding relations with provisional government in Nicaragua.	762
	Mr. Adee to Mr. Moffat (telegram).	Oct. 12	Same subject. Instructed to act in capacity of secretary to Mr. Dawson.	764
	Mr. Adee to Mr. Olivares (telegram).	...do....	Same subject. Instructed to act in capacity of secretary to Mr. Dawson.	764
	Mr. Adee to Mr. Dawson...	Oct. 14	Same subject. Informs him that he is designated as special agent to the provisional government of Nicaragua and instructs him to enter into de facto relations with the executive power.	764
	Mr. Dawson to Mr. Knox (telegram).	Oct. 19	Same subject. Reports his arrival and visit to Provisional President of Nicaragua.	765
	Same to same (telegram)...	Oct. 28	Same subject. Reports terms proposed by Provisional President Estrada and asks if department approves.	765
	Mr. Adee to Mr. Dawson (telegram).	Nov. 2	Same subject. Defines department's attitude relative to proposals of Provisional President.	766

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	Mr. Wilson to Mr. Morgenstierne (telegram).	July 2	Same subject. Extends sympathy.....	768
	Mr. Wilson to Madame Gude (telegram).	...do....	Same subject. Expresses sympathy and asks if department can be of service.	768
	Mr. Morgenstierne to Mr. Wilson (telegram).	July 4	Same subject. Expresses thanks for message of sympathy.	768
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CORRESPONDENCE.

CIRCULARS.

EXPATRIATION.

The application of the second paragraph of section 2 of the act of March 2, 1907.

DEPARTMENT OF STATE,
Washington, July 21, 1910.

To the diplomatic and consular officers of the United States.

GENTLEMEN: Referring to the department's circular instruction of April 19, 1907, entitled "Expatriation," and especially to the second paragraph of section 2 of the act of March 2, 1907, quoted on the fourth page thereof, you are informed that the department has decided that this paragraph is not to be construed as retroactive. In other words, it has been decided that the foreign residence of a naturalized citizen prior to March 2, 1907, is not to be computed in determining whether such person has expatriated himself by a residence of two years in the foreign State from which he came or five years in any other foreign State. It will be seen that this decision will not affect cases arising in the future of persons who shall have resided for two years in the foreign States from which they came, because of the fact that more than two years have elapsed since the law went into effect. This decision will affect, however, the cases of naturalized citizens residing in foreign countries other than their countries of origin, because of the fact that, as five years have not yet elapsed since the law went into effect, the presumption created by the statute has not yet become operative against such persons, and will not become operative as to them until March 2, 1912. The status of such persons, meanwhile, must be determined according to the attendant facts and circumstances, which should in each case be fully reported to the department without delay.

I am, etc.,

HUNTINGTON WILSON,
Acting Secretary of State.

PROTECTION OF NATIVE AMERICANS RESIDING ABROAD.

DEPARTMENT OF STATE,
Washington, July 26, 1910.

To the diplomatic and consular officers of the United States.

GENTLEMEN: The department's attention has been called in recent years, especially through registration reports submitted under the circular instruction of April 19, 1907, to numerous cases of persons

claiming American citizenship through birth in the United States, who have resided in foreign lands for many years, and apparently have no real intention of returning to this country to reside. In the circular instruction of March 27, 1899, entitled "Passports for Persons Residing or Sojourning Abroad," especial reference is made to this class of persons, and the following statements appear:

A condition precedent to the granting of a passport is, under the law and the rules prescribed by authority of the law, that the citizenship of the applicant and his domicile in the United States and intention to return to it with the purpose of residing and performing the duties of citizenship shall be satisfactorily established. One who as expatriated himself can not, therefore, receive a passport.

* * * * *

But even where expatriation may not be established, a person who is permanently resident and domiciled outside of the United States can not receive a passport.

After a careful consideration of the principles underlying this whole question of the protection of American citizens abroad, the department has come to the conclusion that in the case of a native American residing in a foreign land, whether civilized or semibarbarous, a definite intention to resume residence in this country should not be made an absolute prerequisite to the privilege of receiving a passport or certificate of registration, or, if necessary, protection by this Government.

In modern times there has been a vast improvement in facilities for communication and transportation between the various nations of the earth, and a corresponding increase in international travel and trade, and it has become a not unusual practice for citizens of one country to establish themselves in another country for purposes of business, without any intention of renouncing their original allegiance. Therefore, it is the department's opinion that the acquisition of permanent foreign residence by a native citizen has not the same significance which it had in former years. It is considered that an American citizen may now have a permanent foreign residence and yet contribute, indirectly if not directly, to the wealth and strength, the prestige and general welfare of his country, so that as long as he maintains a true allegiance to this Government and is ready, if need be, to come to its defense, he may be entitled to its protection.

In each case of an American permanently residing abroad it will be necessary, before deciding as to his right to protection, to determine among other things whether he maintains an actual connection with the United States and a true allegiance thereto, or whether he has practically abandoned this country and identified himself with the political community of the land in which he resides; and while, as to questions arising in regard to registration and the issuance of passports, a lack of intention to resume residence in this country may, upon matters relating to protection as American citizens, still raise a presumption of expatriation, such presumption shall not be considered as conclusive, but the person concerned shall be given an opportunity to show that he is still a true citizen of the United States. In this connection are to be considered the cause of the foreign residence, participation in the politics of the country of residence or abstention therefrom, ties of family, business, or property maintained with this country, and, in the case of a married man, the original nationality of the wife and the mode of raising the children, and, finally, the general conduct of the person in question.

It is impossible to lay down a general rule which will be applicable to every case which arises, and each case must be decided upon its peculiar merits. You will, therefore, not finally refuse a passport or registration certificate to any person belonging to the class under consideration until you shall have been authorized to do so by the department after a full presentation of the pertinent facts.

I am, gentlemen, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary of State.

EXPATRIATION.

DEPARTMENT OF STATE,
Washington, December 22, 1910.

To the diplomatic and consular officers of the United States.

GENTLEMEN: The department has received a copy of an opinion of the Attorney General under date of December 1, 1910, containing an important ruling as to the meaning of the second paragraph of section 2 of the expatriation act of March 2, 1907 (see expatriation circular of April 19, 1907). The opinion relates to the admission to this country as an American citizen of Nazara Gossin, wife of Jebran Gossin, who was born in Syria, was naturalized as a citizen of the United States in 1905, and returned in 1907 to his native land, where he remained over two years. He was admitted, but his wife, who had trachoma, was detained by the immigration authorities. The following extracts from the decision are quoted for your information:

Section 1994 of the Revised Statutes provides:

"Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen."

Nothing to the contrary appearing, I assume that Nazara Gossin "might herself be lawfully naturalized," and hence is to be deemed a citizen upon her marriage to a citizen of the United States. (27 Op. A. G., 507, and cases cited.) Her present citizenship status depends, therefore, upon that of her husband; and, under the facts presented, he is now a citizen unless his citizenship has been forfeited under the act of March 2, 1907 (34 Stat., 1228).

* * * * *

The presumption as to noncitizenship raised by the act is created for the purpose of relieving the State Department of protecting naturalized citizens abroad when the conditions are apparently such as to indicate that they have no bona fide intention to return to and reside in the United States. When a citizen returns to the United States the necessity for such protection no longer exists, and it is fair to assume that with the cessation of the necessity the presumption created by the act also ceases.

In my opinion, therefore, under the facts stated, Jebran Gossin has not lost his citizenship and his wife, Nazara Gossin, upon the assumption above stated that she herself might be lawfully naturalized, is also to be deemed a citizen.

I am,

P. C. KNOX.

ARGENTINE REPUBLIC.

CELEBRATION OF THE FIRST CENTENNIAL OF THE INDEPENDENCE OF THE ARGENTINE REPUBLIC.

File No. 14503/4.

The Argentine Minister to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, June 15, 1909.

MR. SECRETARY OF STATE: A law of the Argentine Congress has ordained that, through the medium of the executive department, the Governments of America and Europe which have representatives accredited to the Republic be invited to participate in the celebration, in 1910, of the first centennial of its national independence. In accordance with said ordinance I have been charged with the exalted and pleasant duty of inviting the United States Government to take part in said commemoration, trusting that the Nation which, ahead of every other nation, hastened to recognize Argentine sovereignty, will honor by its representation an event so intimately connected with its own history.

In the hope that I shall have the good fortune to transmit to my Government acceptance by the United States Government of the invitation, I have the honor of tendering to your excellency the compliance with the instructions referred to.

I avail, etc.,

EPIFANIO PORTELA.

File No. 14503/4.

The Acting Secretary of State to the Argentine Minister.

Nó. 82.]

DEPARTMENT OF STATE,
Washington, July 19, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo, in which, by direction of your Government and in pursuance of the provisions of a law of the Argentine Congress, you extend to the United States an invitation to take part in the celebration of the first centennial of the independence of the Argentine Republic.

In reply, it affords me pleasure to say that the Government of the United States, which was the first to recognize the Argentine Republic as a sovereign State, and which has observed with particular satisfaction the steady growth of its power and prosperity, is glad to accept this courteously extended invitation.

I beg that you will, in communicating this to your Government, do me the favor to convey to it also the expression of this Government's appreciation and cordial recognition of the friendly sentiments which accompany the invitation.

Accept, etc.,

ALVEY A. ADEE.

File No. 14503/8.

The Argentine Minister to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, November 29, 1909.

MR. SECRETARY OF STATE: By direction of my Government I have the honor to communicate to your excellency the program of ceremonies on the occasion of the centennial anniversary of our national independence.

Accept, etc.,

EPIFANIO PORTELA.

[Inclosure—Translation.]

GENERAL PROGRAM OF THE CEREMONIES WHICH WILL TAKE PLACE DURING THE
WEEK OF MAY AND ON FOLLOWING DAYS.

Evening before.

Reception of foreign vessels by the Argentine fleet in the Rio de la Plata.

Official reception of the representatives of the army and fleets of foreign countries and other delegates in the Government House.

Naval review by the President of the Republic in the outside roadstead.

May 25.

National hymn in the Plaza de Mayo.

Procession of schools.

Laying of the foundation stone of the Monument to Independence by the President of the Republic.

Te Deum in the Cathedral.

Military review of crews of foreign vessels, Argentine vessels, foreign troops, and the National Army.

Illumination of the city and of warships in dock 4 and the north inner harbor.

Gala functions at the Theater Colón.

Following days.

Nautical festivities in the port with the cooperation of foreign and national warships.

Inauguration of the expositions of the centenary: Industrial, cattle, agricultural, hygiene, art, terrestrial transports, and railroads.

Opening of Congresses: Scientific, Americanists, hygiene, National Women's.

Dedication of the monument to the Armies of Independence in the Plaza San Martín.

Dedication of monuments and statues to the members of the first junta.

Laying of foundation stones of statues to various great men of independence.

Dedication of the Plaza del Congreso and laying in it of the foundation stones of the following monuments: Assembly, 1813; Congress of 1816; Congress of 1853

Reception in the Palace of Congress.

Reception and dedication of the monuments offered by foreigners to the Argentine Republic; British, French, Spanish, Italian, Swiss, and Austro-Hungarian residents.

Athletic and equine contests.

Grand reunion of races in the Argentine hippodrome.

Reception at private clubs.

Visits into the interior of the country, farms, etc.

Literary festivals; popular festival: in general.

Leave taking of foreign delegates.

File No. 14503/28.

The Acting Secretary of State to Minister Sherrill.

No. 98.]

DEPARTMENT OF STATE.

Washington, March 31, 1910.

SIR: For your information before the arrival of the first fleet at Buenos Aires, I inclose herewith a copy of a letter from the Secretary of the Navy, stating that the squadron, which will be commanded by Rear Admiral Staunton, will be known as the United States Special Service Squadron, specifying the vessels which will compose the squadron, and transmitting a list¹ of the commissioned and warrant officers of each ship.

I am, etc.,

HUNTINGTON WILSON.

[Inclosure.]

*The Secretary of the Navy to the Secretary of State.*NAVY DEPARTMENT,
Washington, March 25, 1910.

SIR: I have the honor to inform you that circumstances have rendered it necessary to substitute the U. S. S. *South Dakota* for the U. S. S. *Washington* in the armored cruiser squadron which is to visit Buenos Aires in May. The squadron will be known as the United States Special Service Squadron, will be under the command of Rear Admiral Sidney A. Staunton, United States Navy, as commander in chief, and will consist of the U. S. S. *Tennessee* (flagship), U. S. S. *North Carolina*, U. S. S. *Montana*, U. S. S. *South Dakota*, and the scout cruiser *Chester*.

A list of the commissioned and warrant officers of each of these ships is inclosed herewith as requested by the State Department.

Faithfully yours,

G. V. L. MEYER.

File No. 14503/31A.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 5, 1910.

Inform Government President has appointed Maj. Gen. Leonard Wood as special ambassador to represent this country at the centenary celebration beginning May 18. The General, accompanied by his aid-de-camp, Capt. John R. Procter, sails for Buenos Aires 8th instant on cruiser *Montana*. Should arrive about 15th.

WILSON.

File No. 14503/39A.

*The Secretary of State to the Argentine Chargé.*DEPARTMENT OF STATE,
Washington, April 5, 1910.

SIR: I beg to inform you of the appointment by the President of Maj. Gen. Leonard Wood as special ambassador of the United States of America to the centenary celebration of the Argentine Republic.

¹Not printed.

Gen. Wood, accompanied by his aid-de-camp, Capt. John R. Procter, will sail for Buenos Aires on the 8th instant by the U. S. cruiser *Montana* and should reach their destination about the middle of May.

Accept, etc.,

For Mr. KNOX:

HUNTINGTON WILSON.

President Taft to the President of the Argentine Republic.

[Telegram.]

THE WHITE HOUSE,
Washington, May 25, 1910.

In the name of the Government and people of the United States and in my own I send cordial felicitations on this centennial anniversary of the birth of your great nation. The United States of America has observed with sympathetic interest the marvelous development of the Argentine Republic, not only in material things, but in the highest aims of nations, and it is our hearty wish that this sister Republic of the south may ever flourish and prosper. I also offer to Your Excellency personally the assurance of my own high regard and good wishes.

WM. H. TAFT.

File No. 14503/56B.

The Secretary of State to the Argentine Chargé.

DEPARTMENT OF STATE,
Washington, May 25, 1910.

SIR: I have the pleasure to inform you that the President has telegraphed his congratulations to President Figueroa on this centennial anniversary of the Argentine Republic.

In renewing the splendid achievements and progress of your country during this historic epoch, the Government and people of the United States appreciate the gratification your countrymen must feel upon this interesting commemoration of the inception of the Republic. I voice the sentiments of the people of the United States, as well as of this Government, in saying that we rejoice with Argentina to-day and unite our good wishes for a long era of peace and prosperity.

I avail, etc.,

P. C. KNOX.

File No. 14503/56A.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 25, 1910.

The President has to-day sent congratulations to the President of the Argentine Republic. By his direction you will also communicate the felicitations and good wishes of this Government upon this

auspicious anniversary, and express the Secretary's personal compliments to the Minister for Foreign Affairs.

WILSON.

File No. 14503/57.

The Argentine Chargé to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, May 26, 1910.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of Your Excellency's highly appreciated note of yesterday in which, in courteously informing me that the most excellent President of the Republic had sent by cable his felicitations to President Alcorta on the occasion of the Argentine centennial, Your Excellency is pleased to add, as representing the sentiments of the people and Government of the United States, that it afforded you gratification to present your best wishes for the enjoyment of a long era of peace and prosperity by the Argentine Republic.

Profoundly thankful for the high terms in which Your Excellency speaks of the development of my country during that historic period and fully convinced that I am voicing the true desires of the Argentine people and Government, I make in turn the most sincere wishes that nothing will impede the advance of this beautiful country toward its high destinies; that it will develop in undisturbed quiet its immense resources, and continue in the path of marvelous progress which justly arouses the admiration of the whole world.

I avail, etc.,

JACINTO L. VILLEGAS.

File No. 14503/58.

The President of the Argentine Republic to President Taft.

[Telegram.—Translation.]

BUENOS AIRES, May 27, 1910.

In the name of the Argentine Government and people and in my own I express thanks for the cordial congratulations sent to us on the occasion of the centennial anniversary of our independence by the great Republic of the north whose wise institutions have been an inspiration and example for the organization and progress of this people. I express hopes for the increased greatness of our sister Nation and present to Your Excellency the assurances of my high and distinguished consideration.

J. FIGUEROA ALCORTA.

File No. 14503/63.

The Argentine Chargé to the Secretary of State.

[Translation.]

ARGENTINE LEGATION.

Washington, June 14, 1910.

MR. SECRETARY OF STATE: Under instructions that have just been sent me by telegraph by the minister of foreign relations, it affords me true gratification to present to your excellency, in the name of my Government, the expression of its thankful acknowledgment of the highly sympathetic form in which your excellency's Government was pleased to join in the festivals which took place at Buenos Aires on the occasion of the centennial of our independence, by sending, for the purpose, a brilliant delegation consisting of distinguished naval officers in command of important units and bringing as ambassador extraordinary a personage of the eminent station of Maj. Gen. Leonard Wood.

I may assure your excellency that the Argentine people and Government have not failed duly to appreciate this marked demonstration of your excellency's Government and holding it as a fresh evidence of its friendly sentiments toward the Argentine Republic, it hastens to place its sincere gratitude on record.

Begging your excellency to be so kind as to convey these assurances to the most excellent President of the Republic, I have, etc.,

JACINTO L. VILLEGAS.

File No. 14503/85.

Minister Sherrill to the Secretary of State.

No. 428.]

AMERICAN LEGATION,

Buenos Aires, June 18, 1910.

SIR: I have the honor to report, supplementing my No. 387 of the 25th ultimo,¹ that I have to-day received from the minister for foreign affairs an acknowledgment of the congratulations, transmitted through this legation from the President and from yourself upon the occasion of the centenary anniversary of Argentine independence. A copy and translation of the minister's note are inclosed herewith in duplicate.

I have, etc.,

C. H. SHERRILL.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Minister Sherrill.

FOREIGN OFFICE,

Buenos Aires, June 17, 1910.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's communication of May 25, which requests me, in accordance with instructions received from your Government, to repeat the telegrams of congratulation received from His Excellency President Taft to His Excellency President Figueroa Alcorta upon the occasion of the one hundredth anniversary of the revolution of May, and in which your excellency has been good enough to convey from his excellency the Secretary

¹ Not printed.

of State, Hon. Philander C. Knox, the congratulations and good wishes of your Government on our national anniversary.

Upon the receipt of such kind as well as spontaneous congratulations, I take upon myself the pleasant duty of repeating again the expression of profound gratification of the Argentine Government for the eloquent proofs of true friendship which it has received once again from the great Nation of which you are the distinguished representative.

I therefore request your excellency to be good enough to transmit to the Hon. Mr. Knox expressions of these sentiments and beg that your excellency will receive with my personal thanks the assurances of my most distinguished consideration and my special esteem.

V. DE LA PLAZA.

File No. 14503/63.

The Secretary of State to the Argentine Chargé.

No. 106.]

DEPARTMENT OF STATE,
Washington, June 20, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you communicate to the department your Government's expression of its appreciation of the sincere sympathy and friendly sentiments of the United States, as manifested in its choice of its ambassador extraordinary to the Argentine centennial celebration and in its important naval representation on that occasion.

Agreeably to your request, I have taken pleasure in conveying to the President your Government's acknowledgments and expressions of appreciation.

The department is gratified to learn of your Government's satisfaction with the part taken by the United States in the celebration of this auspicious occasion and to reiterate this Government's sincere pleasure in having had this opportunity to express its recognition of the heroism of the founders of Argentine independence, its admiration of the wonderful progress of the Argentine Republic during its first century, and its cordial reciprocation of the regard of your great and friendly nation.

Accept, etc.,

P. C. KNOX.

File No. 14503/83.

Minister Sherrill to the Secretary of State.

No. 437.]

AMERICAN LEGATION,
Buenos Aires, June 22, 1910.

SIR: I have the honor to transmit herewith a copy and translation of a decree issued on May 24 last, recognizing the special foreign ambassadors and ministers to the centenary celebration of Argentine independence.

The Governments of Austria-Hungary, Belgium, the Netherlands, Norway, the Vatican, Brazil, Denmark, and Sweden appointed as special representatives for the centenary their diplomatic officers already accredited to this Government, while the Governments of Ecuador, Japan, Russia, and Costa Rica sent special representatives who have also presented credentials as envoys extraordinary and ministers plenipotentiary accredited to the Argentine Republic. The remaining foreign envoys came as special representatives for the centenary only.

I have, etc.,

C. H. SHERRILL.

[Inclosure.—Translation.]

RECOGNITION OF THE REPRESENTATIVES OF VARIOUS NATIONS TO THE CELEBRATION
OF CENTENARY OF THE MAY REVOLUTION.

Buenos Aires, May 24, 1910.

In view of the credentials of the representatives of the nations which have joined in the celebration of the first centenary of the May revolution, whose reception has already taken place, the President of the Republic decrees:

ARTICLE 1.

The following representatives are recognized in their respective offices:

From the United States of America—Maj. Gen. Leonard Wood, special ambassador.
From His Majesty the King of Spain—Mr. John Perez Caballero, ambassador extraordinary and plenipotentiary.

From His Majesty the King of Italy—Hon. Ferdinando Martini, ambassador extraordinary and plenipotentiary, member of Parliament.

From France—Senator Pierre Baudin, special ambassador.

From His Majesty the German Emperor—Gen. Baron von der Goltz, ambassador extraordinary.

From Peru—The vice-president of the Republic, Dr. Larrabure y Unánue, special ambassador.

From His Majesty the Emperor of Austria-Hungary—Mr. Norberto de Schmucker, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the King of the Belgians—Mr. Carlos Renoz, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the Emperor of Japan—Mr. Eki Hioki, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the King of Norway—Mr. Andrés Christopherson, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the King of Portugal—Captain Alvaro da Costa, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the Emperor of all the Russias—Counselor of State Maximoff, envoy extraordinary and minister plenipotentiary on special mission.

From His Holiness Pope Pío X—Monsignor Aquiles Locatelli, apostolic internuncio, envoy extraordinary on special mission.

From the United States of Brazil—Mr. Domicio da Gama, envoy extraordinary and minister plenipotentiary on special mission.

From Costa Rica—Mr. Alfredo Volio, envoy extraordinary and minister plenipotentiary on special mission.

From His Majesty the King of Denmark—Mr. Carlos C. Wandel, minister resident on special mission.

From His Majesty the King of Sweden—Mr. Harold Bildt, chargé d'affaires on special mission.

From the Oriental Republic of Uruguay—The special delegation headed by Dr. Blas Vidal, jr., minister of finance of his country.

From Paraguay—A special delegation headed by His Excellency Mr. Adolfo Riquelme, minister of interior, and by His Excellency Mr. Albino Jara, minister of army and navy.

ARTICLE 2.

Let it be communicated, published, and given to the National Register.

FIGUEROA ALCORTA.
V. DE LA PLAZA.

File No. 835.415A/97.

The Argentine Chargé to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, November 22, 1910.

MR. SECRETARY OF STATE: I have the honor to inclose office copy and original of the autograph letter ¹ of the President of the Argen-

¹ Not printed.

tine Republic acknowledging the letter sent by President Taft upon the occasion of the centenary anniversary of Argentine independence.
Accept, etc.,

JACINTO L. VILLEGAS.

File No. 835.415A/97.

The Secretary of State to the Argentine Chargé.

DEPARTMENT OF STATE,
Washington, November 30, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, with which you transmit, with office copy, a letter addressed to the President of the United States by the President of the Argentine Republic, in acknowledgment of the letter sent by President Taft on the occasion of the celebration of the centenary of the independence of the Argentine Republic.

It has afforded me much pleasure to lay His Excellency's letter before the President.

Accept, etc.,

P. C. KNOX.

FOURTH INTERNATIONAL CONFERENCE OF AMERICAN STATES.¹

BUENOS AIRES, JULY 12—AUGUST 30, 1910.

File No. 11302/47.

The Argentine Minister to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Washington, September 11, 1909.

MR. SECRETARY OF STATE: My Government having, with much pleasure, accepted the exalted honor which, according to a notice duly communicated to it by the honorable board of directors of the International Bureau of American Republics, has been conferred upon the city of Buenos Aires, by designating it, pursuant to the vote of the Rio de Janeiro conference, as the seat of the Fourth Pan American Congress, to be held in Buenos Aires in 1910, the year in which the Argentine Republic will celebrate the first centennial of her independence, and making sure of the privilege attached to the said designation, has decided to appoint the first fortnight of the month of July of this year for the holding of the conference, the exact date for the opening of the solemnity to be indicated at the proper time.

Wherefore, my Government, with a view to complying with the exalted duties imposed upon it by the said resolution of the International Bureau of American Republics, has charged me with the honor of inviting, in its name, your excellency's Government to participate in the coming fourth conference with the special request

¹See also S. Doc. No. 744, 61st Cong., 3d sess.

that if the invitation, as is hoped and ardently desired, is accepted, your excellency will at once inform my Government as to the number of delegates the United States of America will be represented by and, if possible, as to their names and titles, thereby helping to expedite the preparatory labors of the congress. I am likewise ordered to advise your excellency that as soon as I shall receive from the bureau the program of the conference I shall communicate it to your Government.

Expressing, in advance, to your excellency the great pleasure with which my Government would see the United States honor the invitation I have the honor of tendering them in its name, and hoping there will be no difficulty in acquiescing in the requests I have made in connection therewith,

I avail, etc.,

EPIFANIO PORTELA.

File No. 11302/47.

The Acting Secretary of State to the Argentine Minister.

No. 84]

DEPARTMENT OF STATE,
Washington, October 8, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 11th ultimo, extending an invitation from your Government to the Government of the United States to participate in the Fourth Pan American Conference to be held at Buenos Aires in July, 1910, and in reply beg to express the department's deep appreciation of your esteemed favor and to say that this Government will be very happy to send representatives to the conference.

The selection of delegates of the United States will be made as soon as practicable, and their names communicated to you through the American Legation at Buenos Aires to the Government of the Argentine Republic.

Accept, etc.,

ALVEY A. ADEE.

File No. 11302/123A.

The Secretary of State to the Argentine Minister.

DEPARTMENT OF STATE,
Washington, March 12, 1910.

SIR: I have the honor to inform you of the appointment by the President of the following gentlemen as delegates of the United States of America to the Fourth International Conference of American States which convenes at Buenos Aires on July 9, 1910: Mr. Henry White, chairman; Col. Enoch Herbert Crowder, United States Army; Mr. Lewis Nixon, Mr. John Bassett Moore, Mr. Bernard Moses, Mr. Lamar Charles Quintero, Mr. Paul Samuel Reinsch, and Mr. David Kinley.

In view of the deep interest that the President and this Government take in the conference in question, unusual care has been exercised in the selection of the above delegation, and I beg to call your attention to the high character and well-known reputation of the gentlemen that are to go to Buenos Aires.

The department informed Mr. Sherrill, its diplomatic representative at Buenos Aires, some time ago, of the appointment of the gentlemen referred to above, but I have delayed making this formal announcement to yourself until to-day when the President has decided definitely that the number of our delegates will not be increased beyond the eight I have already mentioned.

Accept, etc.,

(For Mr. Knox;)

HUNTINGTON WILSON.

The Secretary of State to the Delegates of the United States of America to the Fourth International Conference of American States.

DEPARTMENT OF STATE,

Washington, June 14, 1910.

SIRS: The President said in his last annual message to the Congress:

On the 9th of July next there will open at Buenos Aires the Fourth Pan-American Conference. This conference will have a special meaning to the hearts of all Americans, because around its date are clustered the anniversaries of the independence of so many of the American Republics. It is not necessary for me to remind the Congress of the political, social, and commercial importance of these gatherings. * * * It is my purpose to appoint a distinguished and representative delegation, qualified fittingly to represent this country and to deal with the problems of intercontinental interest which will there be discussed.

Among the foreign relations of the United States as they fall into categories, the Pan-American policy takes first place in our diplomacy. In quoting what the President has said, I can not too strongly impress upon you your Government's appreciation of the importance of the occasion or its sense of the responsibility of the service which you have undertaken in accepting appointment to represent this American Government and people at a great gathering of the countries of half a world.

I desired you to report at the department at this time in order that you might have two weeks for study and consultation with the officials of the department in preparation for your work at the conference. That work will, of course, be confined to the program and to such relevant matters as may properly come up, under the rules of the conference, for discussion, and has nothing to do with other subjects of diplomatic discussion, which are in the exclusive charge of the diplomatic service. Nevertheless, there is hardly a phase of the conference more important than its opportunity for the representatives of one Republic to come into intellectual and sympathetic contact with those of the others.

Through such contact of men typical of the best feeling and thought of all the Republics, the American peoples gradually grow to know one another, and by the sure process of mutual understanding and appreciation are built solid international friendships founded in justice, respect, good will, and tolerance. Hence, it is of paramount importance that this delegation truly reflect the sentiments and ideas of the Government of the United States in its Pan-American diplomacy. I therefore desire you, while at the department, to give your studious attention not only to your actual prospective work at the conference, but also to the task of becoming imbued with the spirit which animates the American policy of the United States, so that the

tone of your whole attitude and action shall be in harmony with that policy.

To this end the delegation should, so far as possible, have some general understanding of the conditions in each country and some appreciation of the signal achievements of each nation in ideals, in government, in science, and in material advancement.

The American peoples differ in race and language, and in literary and æsthetic inheritances. They have a common ground in their republican form of government, their love of liberty, in the acquisition of their independence and the history of their progress, and in their emerging through civil strife and their peopling and developing of huge and wild lands into orderly modern States. They are bound together also by a community of interest, and by the ties of mutual helpfulness, both moral and material, and of a common destiny.

For reasons indicated above I shall embody in these instructions, merely as suggestive, some comment upon recent American relations. But first I shall undertake some discussion of the program of the conference.

The Third International American Conference, held in Rio de Janeiro in 1906, adopted the following resolution:

The governing board of the International Bureau of American Republics is authorized to designate the place at which the Fourth International Conference shall meet, which meeting shall be within the next five years; to provide for the drafting of the program and regulations, and to take into consideration all other necessary details.

The governing board of the Bureau of American Republics, exercising the authority thus conferred upon it, fixed Buenos Aires as the place, and July 9, 1910, as the date of the conference, and adopted a program of subjects for consideration. The respective Governments, by indicating their intention to take part and by naming delegates, approved this action of their diplomatic representatives in Washington. It is unlikely that the conference will undertake to enlarge the program, since it was framed after most careful consideration, and the subjects omitted include such as in the judgment of the members of the governing board would tend to excite useless controversy, thus endangering the success of the present conference and militating against that of future ones.

For example, the governing board did not appear to think it advisable that discussion should be renewed as to whether a voluntary conference for general purposes ought to assert competence to impose upon any State the arbitral settlement of one or another particular dispute of long standing, such as there still exist, happily, only very few among the American Republics. Such arbitrations are the logical result of the occasional failure of direct negotiations, but The Hague conventions and the various bilateral arbitration treaties seem to express the most advanced position yet taken by the nations in cases where they do not spontaneously resort to arbitration simply as the sensible and enlightened alternative to force. Hence, evidently, the governing board's omission of arbitration from the program. Should occasion arise you would oppose propositions looking to the assertion of such competence on the part of the conference.

The same considerations apply to any formal demand by the conference for conventions of general compulsory arbitration, or even

any declarations as to the proper methods of enforcing acceptance of boundary awards, since these might at this juncture be regarded by some States as efforts to put them at an unfair disadvantage in the adjustment of pending disputes.

In your informal conversations with the delegates from other countries you will maintain such an attitude as will give rise to no suspicion of partiality or of a desire to use the present conference to affect concrete cases.

As is well known, this Government now as always earnestly advocates the general principle of pacific settlement of international disputes, and it believes that this is also the policy of all the countries participating in this conference, but this conference would not seem an opportune occasion for offering or entertaining definite propositions on the subject.

This Government's general views as to the proper purposes of Pan-American conferences remain as set forth in the instructions to the United States delegates to the third conference, wherein they were thus expressed:

The true function of such a conference is to deal with matters of common interest which are not really subjects of controversy, but upon which comparison of views and friendly discussion may smooth away differences of detail, develop substantial agreement, and lead to cooperation along common lines for the attainment of objects which all really desire.

I. *The organization of the conference.*

This is the first subject on the program for the conference's consideration. The delegation of the United States should avoid being placed in a position of undue prominence in the selection of officers and committees. The system adopted by the third conference of having the more important committees composed of one representative from each Republic gave good results, facilitated the prompt dispatch of business, and avoided discussion of controversial matters in the plenary sessions. You will advocate its continuance, and in general the adoption of the rules that regulated the Rio de Janeiro conference, as recommended with slight modifications by the governing board. There appears little doubt that these regulations, like the program, will be adopted, and as a practical method you should now anticipate this action and proceed to subdivide the probable work, each delegate specializing to some extent in order to qualify himself for useful service as a member of one or another committee.

II. *Commemoration of the Argentine national centenary and of the independence of the American Republics as suggested by the fact that many of those nations celebrate their national centenaries in 1910 and neighboring years.*

This Government takes the most lively interest in the appropriate commemoration of the Argentine national centenary and of the independence of the other American Republics whose national centenaries occur in 1910 and the following years. The suggestions and plans of the Republics primarily interested should receive most sympathetic support and you will cooperate with your colleagues from those countries in the measures that may be proposed by them.

III.—*Submission and consideration of the reports of each delegation as to the action of their respective Governments upon the resolutions and conventions of the third conference held at Rio de Janeiro in July, 1906, including a report upon the results accomplished by the Pan American committees and the consideration of the extension of their functions.*

The Governments of many of the countries participating in the conference have failed to ratify the four conventions recommended by the Rio conference. It is also possible that some ratifications have been made which have not been communicated or exchanged. You will endeavor discreetly to ascertain from your colleagues whether these failures to ratify have been due to real objections to the form or substances of the conventions, or only to difficulties and delays in procuring legislative approval. This information should be procured promptly on your arrival, and it may afford you a basis for urging and aiding the securing, through the various members of the conference, of action by the Governments that have not yet ratified them.

You will also advocate the adoption of a system of deposit of ratifications which will tend to facilitate their prompt exchange and enable the conventions to be proclaimed as well as a mode of adherence in case of nonsignatory governments.

Several countries have not yet named the Pan American committees recommended by the Rio conference. You will urge your colleagues to use their influence with their respective Governments to establish such committees and advocate the enlargement of the functions of the Pan American committees to include cooperation with their Governments in the preparation of any reports called for by the Pan American Conferences and in the preparation of plans for future conferences, such as schemes for greater uniformity in census and other statistical schedules, for the more ready comparison of educational, industrial, financial, economic, and social conditions.

IV. *Submission and consideration of the report of the Director of the International Bureau of the American Republics, together with consideration of the present organization and of recommendations for the possible extension and improvement of its efficiency.*

Not a few of the resolutions of the last conference failed of any important results because of the paucity of the ratifications, because of the failure of the various Pan American committees to contribute information, because of the inability of the Pan American bureau to complete some huge task of collecting information, or from other cause.

With reference to this item on the program, you should study the origin and status of the International Union of American Republics and the bureau which is its office. The institution has grown in a somewhat haphazard manner, and it now seems high time that its organization, status, and working should be clearly determined by convention between the Governments which are its component parts. Its permanency should thus be provided for, and among various matters to be elucidated and brought in conformity with the growth of the institution is the need of a system of auditing of accounts on behalf of the Governments constituting the union.

It is understood that the representative of the bureau will report to the conference upon all these matters.

The delegation of the United States will cooperate, through its member of the appropriate committee, in the preparation of a satisfactory convention and will favor its adoption by the conference.

V. *Resolution expressing appreciation to Mr. Andrew Carnegie of his generous gift for the construction of the new building of the American Republics in Washington.*

The drafting of a resolution expressing to Mr. Andrew Carnegie appreciation of his generous gift for the construction of the new building of the American Republics in Washington will presumably be intrusted to the representatives of some of the Latin-American Republics.

VI. *Report on the progress which has been made on the Pan American Railway since the Rio conference, and consideration of the possibility of cooperative action among the American Republics to secure the completion of the system.*

Very considerable progress has been made since the last conference in the projection, survey, and construction of railroads which will ultimately form part of the Pan American Railway. The rapid economic progress of many of the regions traversed, an increasing realization of the importance of neighborly commercial relations, and the recently aroused interest among the capitalists of this country in the opportunities for investment offered in Latin America are all factors which make the present a particularly appropriate time for the conference to add a further vigorous impulse toward the ultimate realization of the project.

VII. *Consideration of the conditions under which the establishment of more rapid mail, passenger, and express steamship service between the American Republics can be secured.*

The improvement of mail and steamship facilities between the American Republics, and especially between the United States and the Latin-American Republics, is of the greatest import as affecting our present and future commercial relations with those countries. You will manifest the interest this Government feels in the subject and discuss the proposals of your colleagues. Various projects of law have been proposed or are now pending before the United States Congress, but uncertainty as to what will be done in regard thereto renders it inadvisable at the present time for you to present any definite proposals to the consideration of the conference.

VIII. *Consideration of measures which will lead to uniformity among the American Republics in consular documents and the technical requirements of customs regulations, and also in census and commercial statistics.*

The task of assembling the vast amount of detailed information which would be requisite to an exhaustive comparison of all the regulations of the different 21 Republics, which the third conference

delegated to the International Bureau of American Republics, not unnaturally proved impossible. In the view of this Government it would be more practicable again to present generally the project elaborated in connection with the first conference, and seek by such means to make progress toward the elimination of vexatious hindrances to trade.

In order to bring about the greatest freedom of commercial intercourse between the American Republics, it would seem highly desirable to take steps to remove such objectionable consular and customs regulations as may be found to interfere with the efforts of the citizens of each Republic to carry on business relations with the citizens of the others. A brief examination shows that the regulations of the American Republics are widely different in character and must lead to confusion on the part of exporters and importers who must comply with them. Some of the regulations are so unduly exacting that exporters from the United States have been known to abandon the trade with a particular country rather than undergo the annoyance and delay necessary to meet the consular and customs requirements. It would seem, therefore, that one of the most important reforms to which the fourth Pan American conference could address itself would be the adoption of uniform regulations and fees for the ordinary consular and customs acts and documents.

Nowhere is the lack of uniformity in the consular regulations of the American Republics better illustrated than in the fees prescribed for the consular certificates of invoices. It is recommended that each Republic be asked to join in a convention or in an agreement for executive action to fix a uniform fee of \$2.50 gold for the certificates of each invoice, including as many as four copies; provided, however, that for invoices the value of which does not exceed \$100 the fee shall be 50 cents. This is in substantial accord with the agreement of the First International American Conference.

Another object which might be accomplished to facilitate trade between the Republics would be an agreement by convention or otherwise upon a uniform invoice for all shipments from one Republic to another and a uniform method of consular certification. The recommendation of the First International American Conference, if adopted with slight modifications, would afford a very satisfactory solution of this question by causing to be prescribed an invoice which should be made out in duplicate, triplicate, or quadruplicate, in the language of the country of import and in the currency actually paid for the merchandise, which should also declare the contents and value of each package, state the quantities and values of the merchandise in figures and not in words, and be in other respects similar to the form now in use by the United States, which has been found to be highly satisfactory.

In the interest of uniformity of statistics, as well as of the convenience of exporters, it would seem important that the consular certification of invoices should take place at the point where the merchandise is situated at the time of purchase, or, in other words, at the point from which it begins its journey to its ultimate destination; provided, however, that where articles purchased in various places are forwarded to one point to be packed for shipment abroad the invoice may be certified by the consul at the place where such assembling and packing is done.

It would also be desirable to have a uniform rule that if by reason of delay in the mails, or for other satisfactory causes, an invoice certified by a consul could not be produced, entry be allowed on a statement in the form of an invoice upon the execution of a bond for the subsequent production of an invoice duly certified by the appropriate consul.

There is a great lack of uniformity among the regulations of the American Republics in respect to the certification of manifests of vessels and cargo, some Republics requiring certification and charging liberal fees therefor, and other Republics requiring no certification. For the convenience of exporters and masters of vessels, and with a view to the simplification of the regulations under which commerce may be carried on, it would seem desirable that uniform regulations and uniform fees be adopted in respect to manifests or that a regulation requiring no certification of manifests be agreed upon. The United States does not require consular certification of manifests.

Inasmuch as nearly every country requires imported merchandise to be accompanied by an invoice certified by a consul of that country stationed in the country of exportation of the merchandise, there would seem to be no strong reason for requiring consuls, in addition, to certify bills of lading covering such shipments; and an agreement to abolish the requirements for the consular certification of bills of lading, with the fees therefor, would seem to be another step that might properly be taken in the direction of removing obstacles in the way of perfect freedom of commercial intercourse.

American merchants seeking to carry on business relations with some of the other American Republics have been put to much annoyance and expense by the enforcement of regulations imposing fines or penalties on account of technical and clerical errors in invoices. If an agreement could be reached, as recommended by the First International American Conference, to the effect that technical defects in the form of any document which has been duly authenticated before the consul of any of the countries should not in that country be deemed sufficient cause for the imposition of fines or penalties and that all other manifest clerical errors may be corrected after entry at the customhouse of the country without prejudice to the consignee or owner, commercial relations between the American Republics would be greatly facilitated. It is probable that this change could be made by executive action on the part of the several Republics.

Hardly less important is the gathering and publishing of commercial statistics and making them, so far as possible, uniform. Present variances are so great, and commercial data are so interwoven with the varying tariff systems and trade customs of the 21 Republics, that progress must necessarily be slow. You will give careful attention to the memorandum on the subject prepared by Mr. Jacobson, expert of the Department of Commerce and Labor, and, so far as opportune, favor the taking of practical steps in the line of his recommendations.

IX. *Consideration of the recommendations of the Pan American sanitary congresses in regard to sanitary police and quarantine and of such additional recommendations as may tend to the elimination of preventable diseases.*

You will endeavor to procure from the conference a recommendation that the conclusions of the Mexican and Costa Rican sanitary conferences be adopted by the respective countries.

The recommendations on this subject contained in the instructions to the delegates to the third conference are reaffirmed for your guidance.

The progress made in sewerage and sanitation of the ports of the various Republics has been most admirable, and it may well be expected that in the not distant future the few remaining unsanitary ports will be likewise improved. The difficulties appear to be mainly financial, the necessary expenditures in many cases exceeding current municipal revenues. But it would seem to be an opportunity for foreign capital on a large scale to contribute to most excellent enterprises, and no doubt is felt that it can be interested.

X. *Consideration of a practicable arrangement between the American Republics covering patents, trade-marks, and copyrights.*

The advance in commercial morality of modern times is in no way better illustrated than in the feeling among all enlightened nations that the author and inventor should be protected in the enjoyment of the fruits of their labor, and the American Republics have frequently shown themselves fully alive to the duty of protecting, within their jurisdiction, rights in literary, artistic, and industrial property which have been, after due examination, established in other jurisdictions.

The subject of the protection of patents, trade-marks, and copyrights was discussed at Montevideo, at Washington, at Mexico, and at Rio de Janeiro. The Third Pan American Conference adopted conventions which conserved in their entirety the conventions framed by the conference at the City of Mexico consolidating them into one convention and making certain other provisions, such as that for the establishment of international bureaus at Havana and Rio de Janeiro.

The Rio de Janeiro convention was signed by the delegates of the United States, but its careful analysis by the Patent Office revealed such serious defects that it was deemed inadvisable that it should be even laid before the Senate with a view to ratification.

In the first place, the engrafting of new provisions upon a combination of the two Mexican conventions made it unduly complicated. It imposed the obligation to recognize foreign patents even if such had been granted without any examination. It imposed an obligation, both useless and impossible, under which a government issuing a great number of patents would have had to send full data to the other signatory governments. It would have been in conflict with the most advanced systems, and notably would have been inconsistent with the Paris convention of 1883, the merits of which have been recognized by previous Pan American conferences.

It will be one of your important duties to seek the adoption of suitable conventions to regularize the mutual protection of these

classes of property among the American Republics. Having in view the extreme technicality of these subjects, the President has appointed Mr. Edward B. Moore, Commissioner of Patents, as expert attaché to the delegation. Mr. Moore has prepared drafts of three conventions covering, respectively, patents, trade-marks, and copyrights, and their provisions appear to this Government admirably responsive to the needs of the situation. In your advocacy of the conventions you will be guided entirely by the advice of the Commissioner of Patents, and in their discussion you should point out that they are entirely in harmony with the international convention adopted at Paris in 1883, emphasizing the fact that their adoption will greatly improve the position of the Republics concerned in the discussions at the meeting of the International Union for the Protection of Industrial Property, which is to be held in Washington in May, 1911, and to which all the American Republics have been invited.

XI. *Consideration of the continuance of the treaties on pecuniary claims after their expiration.*

Inasmuch as The Hague general arbitration treaties which were adhered to by most American Republics in 1907 do not satisfactorily cover the subject, you will for your part urge the continuance of the treaties on pecuniary claims after their expiration, and if any of the other countries of the conference should have special reasons for desiring to discontinue the Rio treaties you will seek to ascertain the reason for such action. This Government hopes that those countries which have thus far failed to ratify them may conclude to do so.

XII. *Consideration of a plan to promote the interchange of professors and students among the universities and academies of the American Republics.*

An interchange of professors and students among the universities and academies of the American Republics will undoubtedly promote mutual intellectual and social understanding and sympathy, and you will give your hearty support to any practical plan tending to this end which may be devised.

XIII. *Resolution in appreciation of the Pan-American Scientific Congress held in Santiago, Chile, December, 1908.*

You may support a resolution expressing appreciation of the valuable labors of the Pan-American Scientific Congress of Santiago. The delegates to that congress were active and efficient and it would seem appropriate that they should receive a justly deserved recognition at the hands of this conference.

XIV. *Resolution instructing the governing board of the International Bureau of the American Republics to consider and recommend the manner in which the American Republics may see fit to celebrate the opening of the Panama Canal.*

It seems very fitting that some such resolution should be passed whereby the governing board would recommend the manner in which the other American Republics might join with the United States

by participation in the celebration of the opening of the Panama Canal.

The great benefits of easier intercourse and more convenient commerce the canal is expected to bestow upon all the Republics will doubtless engender great interest in such celebration.

XV. *Future conferences.*

Strong reasons have been advanced against holding the Pan American conferences at short intervals. Fear has been expressed that the failure of important tangible results in the form of actual conventions ratified and put into operation might create an impression of futility. Bearing in mind the extreme difficulty of agreement by 21 Republics, and feeling also that these conferences have a meaning and a moral effect outweighing their material results, the Government of the United States can hardly share this fear. However, the distances are great and the delegates have to be chosen from the ranks of busy men, and altogether I am persuaded that intervals of six years as a minimum would probably afford an appropriate frequency, unless in this particular case it should be deemed expedient that the next conference should synchronize with the celebration of the opening of the Panama Canal.

After a year, during which the relations of a number of the Republics have been at times under considerable strain, so many differences seem now either settled or well on the way toward settlement that one may perhaps say without unjustifiable optimism that the time appears especially auspicious for the success of the Fourth Pan American Conference.

So far as the United States is concerned, I am very happy to assure you of the conviction of this Government that its relations with the Republics of Latin America are upon a firmer foundation, perhaps, than ever before. This gratifying situation no doubt arises, to a great degree, from the fact that the very troubles of the past year have afforded opportunities for cooperation and for the expression, in action, of mutual confidence.

When the relations of Peru and Bolivia were strained by the acrimony engendered by their boundary dispute, which had been submitted to the arbitration of the Government of the Argentine Republic, the United States, while adhering to the policy of abstention from any undue mingling in the affairs of other countries, had the opportunity to voice its confidence that the Governments immediately concerned, if left to themselves, would reach a solution satisfactory to the dignity and interests of each and in a manner to do no injury to the great principle of arbitration. This belief was justified by events, and later, through the action of the governing board of the Pan American Union, the way was also smoothed in a manner whereby the Bolivian Government is to be represented at the conference. This action of the governing board has an importance in that it laid down a principle, in which this Government firmly believes, namely, that membership in the Pan American Union entitles each Government to participate in the conferences irrespective of the existence of diplomatic relations between it and the Government in whose capital the conference may be held—a principle which the Government of the Argentine Republic was the first to espouse.

In response to the request of Costa Rica and of Panama, the good offices of the United States were extended to bring together the respective representatives who signed a convention under which the ancient boundary dispute between the two countries is to be referred to arbitration.

Quite recently, when the armies of Peru and Ecuador had been mobilized and were reported to be in sight of each other, the Governments of the Argentine Republic and of the United States of Brazil joined this Government in offering their mediation, under The Hague conventions of 1899 and 1907, and in the name of Pan Americanism, and it is sincerely hoped that this action will prove to have averted a war. The promptness and cordial unanimity of this tripartite movement for peace happily illustrates the harmony and good will of the Governments concerned. Indeed, scarcely less important than the beneficent results which it is hoped has been accomplished is the fine example of these great powers working together for a high purpose—an example further signalized by the fact that the Government of Chile promptly came forward with the assurance of its valuable support, which is a powerful influence and an important contribution to the probable success of the efforts of the Governments which directly offered their mediation. This joint action is interesting also as giving to the American Republics the honor of first making actual avail of these most important provisions of The Hague conventions.

Among the achievements in which this Government had not the honor of a part may be mentioned the following: There has recently been adjusted a boundary question between Peru and Brazil, and conventions have been signed between Argentina and Uruguay and between Brazil and Uruguay, with a happy effect upon the question of navigation in the River Plate, and, in the second case, upon a question of access to the sea from northern Uruguay through Brazilian waterways.

The geographical proximity of Central America, the frequency of trouble in the less fortunate of those Republics, and the relation to them of the United States as a moral party to the Washington conventions of 1907 have resulted in this Government's being, for a number of years, frequently called upon to exert its influence among those Republics. The present year has been no exception. As you are aware, there are now no diplomatic relations between the United States and Nicaragua for the reason that this Government has not yet seen its way clear to recognize any Government as in the possession and exercise of the governmental machinery of the whole country with the consent of the governed, as able and willing to discharge its international obligations, as capable of responding to a demand for indemnity for the murder of American citizens last winter, as determined to bend every effort to bring those guilty to justice wherever they may be, and as prepared to strengthen, for its part, and to abide by the Washington conventions.

The policy of the United States toward Nicaragua was fully set forth in a letter addressed to the then chargé d'affaires of the Government of Zelaya, who was handed his passports December 1, 1909. Although the situation in Nicaragua remains a regrettable one, that policy has already had the effect, at least, of freeing Nicaragua from a dictator who was the scourge of his own people and who disdained and trampled upon the rights and interests of all foreigners.

In being compelled to take somewhat drastic action toward such a Government the United States well knew that its action would not be misconstrued by the progressive American Republics with stable Governments and high ideals, for such Governments know that to ask justice for our citizens and to refuse to tolerate and deal with mediæval despots is only to be true to the civilization and institutions which they share. If this were not true, then Pan Americanism would be a sham instead of a community of free and equal Governments, each worthy and demanding the respect of the others.

I am, sirs, your obedient servant,

P. C. KNOX.

HON. HENRY WHITE, *Chairman*,
COL. E. H. CROWDER,
LEWIS NIXON, Esq.,
HON. JOHN BASSETT MOORE,
HON. BERNARD MOSES,
LAMAR C. QUINTERO, Esq.,
Prof. PAUL S. REINSCH,
Prof. DAVID KINLEY,

*Delegates of the United States of America to the
Fourth International Conference of American States.*

File No. 11302/241.

Minister Sherrill to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Buenos Aires, July 12, 1910.

Mr. Sherrill reports that the Pan American conference opened this day at 4 o'clock in the afternoon.

*Delegates of the United States to the Fourth International Conference of
American States to the Secretary of State.*¹

SIR: We have the honor to transmit to you the following report of the proceedings of the Fourth International Conference of American States, which has just concluded its labors and at which we have been present as delegates of the United States, including certain documents hereinafter enumerated.

Leaving New York on board the U. S. Army transport *Sumner* on Thursday, June 16, we reached Buenos Aires on Friday, July 8, 1910.

We were met on landing by the minister of the United States, Hon. Charles H. Sherrill, and his staff, by Mr. Bartleman, the consul general, by several of the ministers from other American Republics accredited to the United States, and by Argentine officials.

July 9, the day fixed by the governing board of the Bureau of the American Republics for the opening of the conference, being the national festival of the Argentine Republic, we found on reaching Buenos Aires that the inaugural session had been postponed until

¹ For appendices other than those printed herewith, see S. Doc. No. 744, 61st Cong., 3d sess.

Tuesday, the 12th, on which day it took place in the presence of the minister of foreign affairs, Dr. de la Plaza, who took the chair, and of others of the Argentine cabinet, of the ministers of foreign powers accredited to this Republic, all of whom had seats on the floor, and of a goodly number of spectators in the galleries.

The minister of foreign affairs delivered an interesting speech, cordially welcoming to Buenos Aires the delegates of the various countries represented at the conference, alluding to the work of this and of previous conferences and referring in eulogistic terms to the Monroe doctrine, in which he said the people of the Argentine Republic had always been firm believers. The chairman of the delegation of the United States, at the general request of the other delegates, replied to the speech of the minister, after which Dr. Bermejo, chief justice of the supreme court and president of the Argentine delegation, was selected permanent president, and Señor Epifanio Portela, minister of that country to the United States, secretary general of the conference; Hon. P. C. Knox and Dr. de la Plaza, respectively Secretary of State of the United States and Minister of Foreign Affairs of the Argentine Republic, being elected honorary presidents.

Dr. Bermejo, upon taking the chair, made a speech, the copy of which, together with those of the two previously referred to, is attached to this report. (Appendix C.)

All the Republics of America, except Bolivia, were represented, and the flag of each in succession was displayed for a day over the building in which the conference met. Notwithstanding the absence of a delegation from Bolivia, the flag of that country was flown in its turn.

A list of the names of the delegates and of the officials of the conference is annexed. (Appendix F.)

The sessions of the conference were held in the new palace of justice, a large and imposing building recently erected for the law courts on one of the principal squares of the city. In addition to the large central hall in which the formal sessions took place a number of smaller rooms were conveniently arranged for the meetings of committees, and the president was good enough to announce at the first session that all telegrams and cablegrams sent by the delegates would be forwarded to their destination free of charge by the Argentine Government. Luncheon and other refreshments were also provided for the delegates and their friends throughout the duration of the conference, and every arrangement was made for their convenience and comfort.

The first session for the transaction of business was held on the 14th of July and was chiefly devoted to the rearrangement of the subjects to be assigned to the committees, as provided in article 6 of the program (Appendix A), particularly in respect to sections 3 and 4 thereof, a general feeling having manifested itself in favor of increasing the number of the committees as conducive to the more rapid dispatch of business. After some discussion the president appointed a committee to consider the subject, and upon its recommendation a resolution providing for 14 committees, instead of 7, was adopted. (Appendix N.)

The following is a list of the committees upon which this delegation was represented, with the name of its member upon each, from which you will observe that committee No. 1 (rules and credentials)

is the only one of the 14 whereon there was no delegate from the United States. A complete list of the membership of all the committees will be found in Appendix G.

Second committee.—Subjects of the program: II. Commemoration of the independence of the American Republics; V. Mr. Carnegie's generosity; XIII. Appreciation of the Pan American Scientific Congress at Santiago; XIV. Celebration of the opening of the Panama Canal. Mr. White (seven members).

Third committee.—Subject III of the program: Reports of delegations as to the action of their respective Governments upon the resolutions and conventions of the Third Conference. Mr. White (20 members).

Fourth committee.—Subject IV of the program: Report of the Director of the International Bureau of the American Republics. Mr. Reinsch (20 members).

Fifth committee.—Subject VI of the program: Pan American Railway. Mr. Moore (20 members).

Sixth committee.—Subject VII of the program: Establishment of more rapid steamship service between the American Republics. Mr. Nixon (seven members).

Seventh committee.—Subject VIII of the program: Uniformity in consular documents and the technical requirements of customs regulations, and also in census and commercial statistics. Col. Crowder (20 members).

Eighth committee.—Subject IX of the program: Recommendations of the Pan American sanitary congresses in regard to sanitary police, quarantine, etc. Mr. Kinley (20 members).

Ninth committee.—Subject X of the program, in part: Patents and trade-marks. Mr. Quintero (seven members).

Tenth committee.—Subject X of the program, in part: Copyright; and XII, ~~I~~nterchange of professors and students among the universities and academies of the American Republics. Mr. Moses (seven members).

Eleventh committee.—Subject XI of the program: Continuance of treaties on pecuniary claims. Mr. Moore (seven members).

Twelfth committee.—Subject XV of the program: Future conferences. Mr. Quintero (20 members).

Thirteenth committee.—Article 6, section 6, of the regulations: Publications. Mr. Reinsch (five members).

Fourteenth committee.—Article 6, section 7, of the regulations: General welfare. Mr. Moses (five members).

It may be well to add that in several instances members of our delegation were unanimously elected as chairmen of the committees to which they were respectively assigned, but we had decided beforehand not to accept any chairmanship save that of the sixth committee, to which Mr. Nixon was elected, and for his acceptance, of which there appeared to be special reasons.

There were 14 plenary sessions of the conference, one of which was called to express sympathy with Chile on the death of President Montt, while three were devoted to the commemoration of the independence days of Colombia, Peru, and Ecuador, which fell on days on which the conference sat, but in addition to the sessions of the conference there were many and frequent meetings of the committees, in which the discussion of the subjects on the program was for the most part conducted. Not a single unfriendly, much less ill-tempered, word fell from anyone at any session of the conference, and the discussions in committee were on the whole conducted with an unusual degree of good humor and with a marked desire not to allow personal predilections, however strong in favor of any particular point, to interfere with a unanimous decision. As a result you will observe that no minority report was made in any committee and that the single report of each is signed by all the delegates of which its membership was composed.

All of the subjects upon the program which required careful consideration were very fully gone into and satisfactorily dealt with

by the committees having them in charge, and it would be unfair to our colleagues from the other 19 Republics represented on those committees not to call your attention to the fact that they, one and all, showed not only invariable courtesy to the member from the United States but favorable consideration for his views whenever possible.

Four conventions and 20 resolutions were adopted by the conference after discussion of each, but for the most part practically as reported from the committees.

The following consideration of the work accomplished by the conference is submitted in the order in which the subjects appear upon the program:

COMMEMORATION OF THE ARGENTINE NATIONAL CENTENARY AND OF THE INDEPENDENCE OF THE AMERICAN REPUBLICS.

An appropriate resolution was reported by the second committee and passed by the conference. It is set forth in the minutes and embodies proposals made by the representatives (1) of Chile, for the erection of a building in the city of Buenos Aires for the purpose of a permanent exhibition of products of the soil and of the industry of all the nations of America; and (2) of Cuba, for the publication of an artistic volume in which the declarations of independence of all the American Republics shall appear, together with certain salient historical incidents connected therewith. The representative of the United States was careful to explain to the committee his Government's special interest in these centenary celebrations of the sister Republics, quoting extracts relative thereto from the President's last annual message to Congress and from your instructions to the delegation. The resolution as adopted will be found in Appendix O.

ACTION OF THE VARIOUS GOVERNMENTS WITH RESPECT TO THE RESOLUTIONS AND CONVENTIONS OF THE THIRD CONFERENCE.

The third committee, which had this subject in charge, gave it full and careful consideration.

All of the delegations, except that of Haiti, which was not represented at the third conference, presented memoranda (translations of which are appended to this report, Appendix H) relative to the action of their respective Governments upon the conventions and resolutions of that conference. A tabulated statement showing at a glance the action of each Government upon the four conventions of the third conference is also transmitted herewith. (Appendix I.)

In the resolution reported by the committee and adopted by the conference (1) cooperation between the Pan American committees and their respective Governments in the preparation for future conferences; (2) the establishment of such Pan American committees in countries where they do not yet exist; (3) the carrying out of the agreements reached by the third conference in respect to natural resources, monetary systems, commerce, customs, and statistical schedules; and (4) the adoption of a system of deposit of ratifications with a view to their prompt exchange and to the speedy proclamation of conventions, as well as the adhesion of nations not originally parties thereto, are provided for.

The Chilean delegation having proposed a resolution suggesting that, in the codification of international law, as provided by the fourth convention of the third conference, a distinction be made between questions of general and questions of purely American interest, the committee recommended that the same should be submitted to the consideration of the jurists having charge of the codification in question.

A form of resolution submitted by the delegates of Costa Rica, Guatemala, and Mexico, and having for its object a recommendation that the congress on coffee, suggested in the thirteenth resolution of the third conference, assemble as soon as possible, in view of the crisis now existing in the production and sale of coffee, was considered by the third committee, as was also a memorandum by the Brazilian delegate setting forth the steps which had been taken in reference to the crisis by his Government. The committee thereupon caused a paragraph to be added to its report to the conference stating that in its view, the resolution of the Rio conference relative to a coffee congress being still in force, it rests with the Government of Brazil, as therein provided, to fix the date at which such a congress should be convened. A resolution to this effect was adopted by the conference. (Appendix P.)

A translation of the report of this committee will be found on pages 97 and 251. (Appendices I and DD.)

THE PAN AMERICAN UNION.

The committee on the Bureau of American Republics considered the advisability of converting into a formal convention the resolution passed and continued by successive conferences under which that institution has hitherto been maintained. On the part of many delegates the belief was expressed that the ratification of such a convention would require an indefinite time on account of the constitutional provisions in numerous Republics which require the consent of their Congresses. It was felt that the activities of the bureau might be embarrassed were a convention adopted immediately on account of the delays which might occur in its ratification. It was therefore decided to maintain for the immediate future the resolution under which the bureau exists, making therein such changes as might seem necessary, and also to submit to the Governments the draft of a convention carefully considered by the committee, which might be concluded as soon as the Governments should find it convenient. (Appendices Q and R.)

The conference maintained the presidency of the Secretary of State of the United States of America in the governing board of the Pan American Union. Indication has been made by the delegates of some countries that it would be more in accordance with the equal dignity of all the members in the union if the chairmanship of the board were made elective, but it was pointed out that by the common practice of international unions a position of similar dignity is usually accorded the minister of foreign affairs of the country in which the union has its seat; and also that the presidency of the Secretary of State would powerfully assist the union and help to increase its dignity and efficiency. The importance of these considerations was universally admitted, and the dignity of the presidential office was again conferred upon the Secretary of State of the

United States as an honor freely bestowed by the American nations. In the absence of the Secretary of State the sessions of the governing board are to be presided over by one of the American diplomatic representatives present, in the order of rank and seniority, and with the title of vice president.

In order to acknowledge the dignity which it is proper to recognize in an international institution of such importance, the name of the bureau was changed to "Pan American Union," while the name of the organization of American countries which supports the bureau was changed to the briefer form of "Union of American Republics."

It was decided that a Republic temporarily not represented by a diplomat at Washington might intrust its representation on the governing board of the Pan American Union to some member of that board, this member then having a vote for each country represented.

Under a resolution passed at Rio de Janeiro in 1906, Pan American committees have been established in nearly all of the Republics. It was the original intention that these bodies should cooperate with the central union in carrying out its work. In accordance with this purpose and in order to make it more definite, the fourth conference embodied in the resolution and draft convention relating to the Pan American Union an article defining the functions and relations of the Pan American committees. Being thus linked to the central institution, they are to form with it a common organism, acting as its representatives and agencies in the different States, and having on their part the right to bring to the central union matters relating to their respective countries.

The functions of the Pan American Union were not essentially modified. It was decided that it would be desirable for the union to gather and publish information on the current legislative acts of the American Republics. The position of the Pan American Union as the permanent commission or agent of the International American Conferences was emphasized. The success of these conferences in the future will depend largely upon the thorough and systematic work of preparation carried on by the Pan American Union and the committees. The questions considered by the conferences are becoming less general and elementary, far more detailed and technical. The extensive body of accurate information required in the making of treaties and resolutions which shall be of practical value can be furnished only by cooperative work carried on through the Pan American Union and the committees in the different Republics.

The financial administration of the union was more definitely regulated with respect to the annual budget and the duty of the member States to pay their quota upon a fixed date into the treasury of the Pan American Union. It was left to the governing board to arrange for the fulfillment of the duties of a treasurer on the part of some official of the union, and to establish an independent system of audit. The importance of the Columbus Memorial Library as a center where the most complete information on all the countries of the union can be obtained was recognized, and the countries renewed their engagements to supply this collection with documents and other books. In order to make the work of the Pan American committees more successful, and to form in each country a center of information on all the others, it was also provided that documents and books

should similarly be sent to the Pan American committees in each country.

It was felt that it would not be wise to attempt to make specific regulations for all the activities of the Pan American Union. The power to provide in this manner for the control of the administration in all its agencies was therefore left to the governing board, and in matters referring to the internal administration to the director general.

The Pan American Union thus established is an organization of great importance and dignity. It was therefore thought proper that the title of the head official should be changed to "director general," and that of the secretary to "assistant director." In connection with this change, the committee and the fourth conference expressed their high appreciation of the successful work of propaganda and organization carried on by the present director general, the Hon. John Barrett, as well as the efficiency of the assistant director, Mr. Francisco J. Yanes.

In preparing and adopting the draft of a convention concerning the Pan American Union, the committee and the conference were governed by the principle that in such convention there should be laid down only the essential bases of the organization and functions of the union, leaving to the governing board and to the director general the power to determine, by means of regulations, all the details involved in the proper performance of the functions of the union. The draft convention adopted rests entirely upon experience and incorporates in a more formal manner the organization already developed by means of the successive resolutions and the activities of the union. In the draft of the proposed convention the essential elements of the organization are stated in a simplified form, while many of the details of the resolution are left to the determination of the governing board.

The draft convention on the Pan American Union is in a form ready for the action of the Governments of the American Republics.

During the discussions in committee, the organization and action of the Pan American Union were thoroughly inquired into by the various delegates. The work accomplished in the past was fully appreciated and the means for increasing the usefulness of the institution were discussed in detail and with deep interest. In a spirit of friendliness and cooperation the committee sought to perfect as far as possible the organization of the union and to give it greater efficiency, scope, and dignity.

APPRECIATION OF MR. ANDREW CARNEGIE'S GENEROSITY.

The representative of the United States on the second committee thought it best to leave to the other members thereof the preparation of the resolution embodying the appreciation of the conference of Mr. Andrew Carnegie's generous gift toward the cost of the new building for the Union of American Republics. It was, however, a source of much gratification to hear the many friendly and grateful references made by them, and by the delegates generally, to Mr. Carnegie's interest in the cause of Pan Americanism, and to the practical and generous assistance rendered by him to its furtherance through the magnificent gift in question.

You will observe from the resolution, which is submitted herewith as Appendix S, and which was passed unanimously, that the governing board of the Union of American Republics is instructed to present to Mr. Carnegie in behalf of the conference a copy of the resolution, together with a gold medal bearing on the obverse side the words, "To Andrew Carnegie, the American Republics," and on the reverse side, "Benefactor of humanity."

PAN AMERICAN RAILWAY.

One of the duties with which the conference was charged was that of reporting what progress had been made since the Rio conference upon the Pan American Railway, and of considering the possibility of cooperative action among the American Republics to secure the completion of the system.

In the performance of the first part of this task, the labors of the conference were greatly simplified by the comprehensive but concise and businesslike report of the permanent Pan American Railway committee, through its chairman, the Hon. Henry G. Davis. This report, bearing date of June 10, 1910, was duly presented to the conference. A copy is hereto annexed, marked Appendix GG. It embodied all the information as to the progress of the work which had been received at Washington up to the time of its signature. Its statements were found to be correct, and its usefulness to the conference was much enhanced by the circumstances that the American delegates were furnished, on their departure from the United States, with an abundant supply of copies, printed in English and in Spanish, for distribution among their colleagues.

Either in their formal reports, which were printed for the use of the conference, as to the action of their Governments upon the various conventions and resolutions of the conference at Rio, or in special communications filed with the appropriate committee, statements on the subject of railways, usually with reference to the Pan American system, were made by the delegations from Argentina, Brazil, Chile, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, and Uruguay, the United States presenting the report of the permanent committee. It appeared by the statement of Peru that about 200 kilometers of new railway had been opened in that country since the period covered by the Davis report. Mr. Mejia, of Salvador, the energetic and capable chairman of the committee on the Pan American Railway, announced during its sessions that contracts had been concluded for the completion of that part of the line lying in his country. The delegate from Paraguay, besides submitting a special statement for that country, presented a rectification of the boundary line, as shown in the map accompanying the Davis report, between Paraguay and Bolivia. The fact was generally understood, however, that the map was not intended to be authoritative as to international boundaries.

After due deliberation it was decided in committee that it would not be of any practical advantage for the conference to undertake, on the information before it, to adopt a specific and direct plan of cooperation among the American Republics for the completion of the line, it being apparent from the oral statements of delegates, as well

as from the printed and written documents, that the formulation of such a plan would necessarily involve the consideration of variant local conditions as to which, especially in Colombia, further investigation was essential.

After numerous sessions the committee agreed upon and presented the following report:

The fifth committee, charged with the consideration of Subject VI of the program of the proceedings, has the honor to present to the conference the result of its deliberations.

From the examination of the documents and data submitted by the permanent Pan American Railway committee and by various delegations it appears that the work on the Pan American Railway presents the following conditions: Of 10,211.5 miles, which constitute the total length of the route from Washington to Buenos Aires, there have been built 6,012.9 miles and there remain to be built 4,198.6 miles.

The sections respectively belonging to the territories of the Republics of the United States, Mexico, and Argentina have been finished.

In the time which has elapsed since the last conference at Rio considerable advances have been made on other sections of this important work, but according to the data before it the committee believes that the execution of the work in the part not yet constructed will not be completed within a term responding to the common desires manifested in this and in the preceding conferences if the union of the Republics does not adopt measures designed to accomplish it in a more efficacious way.

With these antecedents, and taking into account the different votes given in previous conferences in favor of the rapid completion of this work, which has contributed so efficaciously to the union of the Republics, the committee proposes that the present conference adopt the following resolutions:

1. To continue the existence, with all its powers, of the permanent Pan American Railway committee in Washington, to which, for the important services which it has rendered, the conference expresses its acknowledgments.

2. To confirm the resolutions taken by the Third Pan American Conference on this same point.

3. Taking into consideration the high moral and material advantage of the complete realization of the important work projected, the conference charges the permanent Pan American Railway committee with the collection, in the briefest possible time, of all the investigations and data, technical and financial, necessary for the formation of a definitive plan and proposition designed for the construction of the work, and earnestly recommends the countries interested in its completion to adopt and communicate to the permanent Pan American Railway committee the most efficacious measures as to the guarantees and subsidies which can be offered to facilitate the fulfillment of this great common desire, to the end that the said committee, in view of these communications, may propose a practical form for the solution of the problem, which would be impossible, or at least very remote of accomplishment, if it should be abandoned to the isolated action of each of the countries specially interested in it.

This report was adopted by the conference without division.

It may be mentioned, as one of the numerous signs of the widespread interest exhibited in the Pan American Railway, that although the committee on the subject was a large one, consisting of a representative from each delegation, its meetings, which were held twice a week, were usually, if not uniformly, attended by all the members, although some of the countries represented in the conference had and have no direct concern in the project.

CONSIDERATION OF THE CONDITIONS UNDER WHICH THE ESTABLISHMENT OF MORE RAPID MAIL, PASSENGER, AND EXPRESS STEAMSHIP SERVICE BETWEEN THE AMERICAN REPUBLICS CAN BE SECURED.

This work was intrusted to a committee of seven. This committee had a number of meetings, but it was suggested by the chairman that each should prepare a statement giving the general idea of the con-

ditions and constitutional powers limiting governmental encouragement, what had been done under such powers, and suggestions of means to secure the service desired. As a result certain recommendations were prepared, which accompany this report as Appendix U.

The instructions to the United States delegation were such as to preclude the suggestion or approval of any definite means of governmental encouragement. For this reason the resolutions submitted were confined to such limits as were general in their application.

The resolutions received the full approval of all the members of the committee, and were submitted to the conference by the chairman on August 12, 1910.

The extent and scope of the resolutions were explained by the chairman in his presentation of the report, which is attached hereto as Appendix HH.

The resolutions were then voted upon one after the other and all were adopted without a dissenting vote.

UNIFORMITY IN CUSTOMS AND CONSULAR REGULATIONS, CENSUS, AND COMMERCIAL STATISTICS.

This general subject was considered by a committee of 20 made up of one representative from each delegation. At its first session three subcommittees were appointed to make the necessary preliminary studies, the first of customs and consular administration, the second of census matters, and the third of commercial statistics, with the duty of reporting to the full committee measures tending to establish uniformity of administration among the American Republics in the several regards named. The bases of these studies were the several memoranda which accompany the report of the full committee, and the proceedings of prior Pan American conferences and of the New York customs congress. Material assistance was given by experts in consular and customs administration whose services were placed at the disposal of the subcommittees by the Argentine ministry of finance.

The instructions of the Department of State to the United States delegation laid special emphasis upon the vexatious hindrances to interchange of trade among the American Republics which resulted from the enforcement by them of regulations affecting their customs and consular services, widely different in character, and leading to confusion on the part of exporters and importers who must comply with them. The delegation was urged to secure an agreement, by convention or otherwise, for such unification and simplification of the existing administration as would tend to remove these hindrances. Specifically it was instructed to secure, if possible, the adoption of (1) uniform regulations respecting manifests, (2) a uniform consular invoice to be made out in the language of the country of import and in the currency of purchase, (3) uniform certification fees for consular invoices of \$2.50 gold where the invoice value exceeded \$100 and for lesser values 50 cents, (4) an agreement to dispense with consular certification of manifests and bills of lading, and (5) a uniform rule that entry of imported merchandise should, in all cases where by reason of delay in mails or for other satisfactory cause the original consular invoice failed to reach customhouse authorities with the ship-

ment, be allowed on a statement in the form of an invoice, accompanied by a proper bond for the subsequent production of a duly certified invoice; and providing further that technical defects in the consular documentation of shipments should not be the basis of fines or penalties, and that manifest clerical errors in such documentation might be corrected after entry at the customhouse and without prejudice to the consignee or owner.

The investigation of the committee disclosed that 18 of the American Republics require consular invoices and that the remaining 3 require certificates of origin, which follow closely the requirements of the consular invoice. The committee had before it the forms of 3 documents of each country in Spanish and English. It was found that different countries required different specifications of shipments and different forms of certificates of shippers and consuls. A comparative study of these forms was made by the Argentine experts, the result of which convinced the committee that the essential requirements of all these documents could be combined into a single international form of consular invoice if there were omitted the certificates of shippers and consuls which must reflect the requirements of local laws. With this omission an international form of consular invoice was reported by the committee and adopted by the conference, which is substantially the present United States form.

By similar means the committee reached the agreement that a common form of consular manifest, which document three of the American Republics deem essential to safeguard their customs revenues, could be adopted.

In the view that the ship's general manifest was substantially a consolidation of bills of lading and had no utility in the entry of imported goods not subordinate to the consular invoice, it was readily agreed by the committee to concur in the recommendation of the first conference to dispense with consular certification of that document, and also to dispense with the certification of the bill of lading as to the countries requiring the certified consular invoice, for the reason that, as the latter document embraces all material data set forth in the former and both accompany the shipment, the certification of the latter was unnecessary.

In respect of fees exacted for consular certification of invoices, an examination of the laws and regulations of the several Republics showed two general systems in force. The first may be appropriately designated the flat-rate system, the consular certification fee being a fixed moderate sum intended solely as a compensation for the consular service rendered. But two nations employ this system, one (Brazil) requiring the flat rate of \$1.65 and the other (the United States) of \$2.50. In the second system the certification fee is in the nature of a tax on the merchandise listed in the invoice, but this system is not uniformly applied. One group of nations exacts a fixed consular certification fee corresponding to fixed invoice value with increments in the former corresponding to increments in the latter. Another group similarly requires a fixed consular certification fee corresponding to a fixed invoice value, but provides that where the invoice value exceeds a certain specified limit the prescribed consular certification fee shall be increased by a percentage charge on the amount in excess or shall be wholly substituted by a straight percentage charge on the total invoice value. Two countries dis-

pense altogether with the fixed certification fee corresponding to fixed invoice values and exact a straight percentage charge on the invoice value whatever the amount, one of these requiring in addition thereto a stamp tax. The percentage charge in all these cases is, in reality, an added ad valorem duty on the merchandise imported.

It was disclosed that the diversity as to system of consular tariffs adopted by the several countries was not more marked than the inequality of the charges exacted by them. Taking, for example, an invoice value of \$2,000, the consular certification fees range upward from a minimum of \$1.65 to a maximum of \$60.

Representatives of those countries which exact fees for the consular certification of invoices in the nature of a tax on the merchandise imported were generally of the opinion that it was impracticable to replace that system with the so-called flat-rate system. It was conceded by them, however, that the charges were in many cases excessive, operated to restrict commerce, and ought in such cases to be reduced, but not below the point necessary for the maintenance of the consular service. The final agreement of the committee, which was accepted by the conference, is set forth in Article VI of the resolutions reported under this head as follows:

Consular fees should be moderate and should not constitute an indirect method of increasing customs receipts. It is believed that it is for the best interests of the international commerce of this continent that these fees, no matter what method is employed for their collection, be limited as far as possible to amounts necessary to cover the cost of maintaining the consular service.

The uniform rule proposed in the instructions to the United States delegation that fines and penalties be not imposed on account of technical errors in documents authenticated by consul, and that manifest clerical errors therein be condoned (subdivision 5, *supra*), met with general opposition on the ground that a provision to this effect would contravene a principle of jurisprudence of many Latin-American Republics, affirmed by their highest courts, namely, that mistakes in documents attested by consul raise a presumption of fraud which must be rebutted by conclusive proof. It was urged that this principle was of the greatest efficacy in protecting their customs revenues against frauds. The attempt to secure an acceptance of this rule had to be abandoned.

The second set of resolutions reported by the committee, under the heading "Customs regulations," and adopted by the conference, are a restatement, with modifications which made them acceptable to the committee, of resolutions of the New York Customs Congress, which had never been placed before the several countries in a formal way for their adhesion. It was deemed advisable by the committee that these conclusions of the New York congress should be reaffirmed and formally submitted with its other recommendations, believing them to be an essential step in the unification of customs administration.

In the third set of resolutions reported by the committee and approved by the conference an effort has been made to segregate and define that part of the work of unification and simplification of customs regulations which is technical in nature and requires the preliminary study of specialists. A definite program for this study, which includes customhouse nomenclature, has been outlined. The conference has followed the precedent of the third conference and

of the New York Customs Congress in devolving this work upon the section of customs, commerce, and statistics of the Pan American Union, in the light of whose investigation it is hoped a subsequent conference may take up and complete the projected unification.

In the discussion in the committee in respect of census matters it was developed that the periodical taking of a census of population, as now required by law, had been prevented in certain of the American Republics by the fact that it would operate to disturb the representation in their legislatures, in view of the requirement that such representation shall be based on population, and that considerations of this character might embarrass the taking of an all American census for 1920, as suggested in the memorandum of the Director of the Census of the United States. The sentiment of the committee was favorable to the taking of such a census wherever practicable, and that it should include also a census of industries and general resources. The committee was of the opinion that the lines upon which such census should be taken and the degree of uniformity which could be observed in such an undertaking and in the compilation of commercial statistics could, in the limited time available to the committee, be indicated only in general outline, and must be left mainly to the study and analysis of specialists in such matters, and that the duty of making such study and analysis and formulating timely recommendations to the several Governments would be appropriately devolved upon the section of customs, commerce, and statistics of the Pan American Union. Resolutions of this character and in substantial accord with the views expressed in the memoranda of the expert statistician of the Department of Commerce and Labor and of the Director of the Census transmitted with and made part of the instructions to the delegation of the United States were adopted.

The text of the report of this committee will be found in Appendix II and that of the resolutions, five in number, in Appendix V.

The efficient consul general of the United States at Buenos Aires, Mr. Richard M. Bartleman, cheerfully cooperated with the representative of the United States on this committee and rendered valuable assistance.

SANITARY POLICE AND QUARANTINE.

This subject was considered by a committee which was composed of one member from each delegation, and of which Dr. Carlos M. de Pena, of Uruguay, was elected chairman.

The instructions of the Secretary of State directed us to "endeavor to procure from the conference a recommendation that the conclusions of the Mexican and Costa Rican Sanitary Conferences be adopted by the respective countries." A memorandum was presented by the representatives of the United States delegation reviewing the work of previous conferences on sanitary matters and recommending, in accordance with our instructions, the adoption of the conclusions of the sanitary conferences referred to. Discussion centered on the proposed amendment to Article IX of the sanitary convention of Washington, whereby the official proof of freedom from infectious disease must be "satisfactory to the interested party." The representatives of six countries objected to these words on the ground that they might put the commerce of a weak country at the mercy of the caprice of a

stronger. After considerable debate it was unanimously agreed to propose in place of the words suggested the following phrase: Official proof "satisfactory to both parties interested." As these words appeared to the representative of the United States to accomplish the purpose intended, he, after consultation with the other members of the American delegation, accepted them, and they were incorporated in the resolution adopted.

Notwithstanding his general agreement with this proposition, the representative of Venezuela had certain reservations which he desired to put on record, and by vote of the committee he was permitted to append a statement to the draft resolution submitted to the conference. The resolution as finally adopted accomplishes, therefore, all that the delegation of the United States was instructed to obtain.

The representative of the United States further suggested to the committee the desirability of including a recommendation that in case of epidemics the respective national Governments assume control of the situation. In the opinion of the committee this point was covered by the fact that such a resolution was already included in the recommendations of previous conferences, and he did not think it wise to press the matter.

The text of the report of the committee will be found in Appendix J J, and that of the resolution in Appendix W.

PATENTS, TRADE-MARKS, AND COPYRIGHTS.

These subjects cover three topics of the program and the work of two committees, but they are so closely related that they can be treated together to better advantage than separately. At the outset we are pleased to state that we have succeeded in obtaining the adoption of suitable conventions to regularize the mutual protection of these classes of property among the American Republics.

The history of the proceedings relating to the adoption of conventions between the American States upon these subjects is outlined in the report of the committee on patents, trade-marks, and copyrights of the Third International Conference held at Rio de Janeiro in 1906, published on pages 154-160 of the Report of the Delegates of the United States (S. Doc. No. 365, 59th Cong., 2d sess.), which it is unnecessary to reproduce here.

As a result of the discussion in the Third Conference, a convention relating to patents and trade-marks was signed, not only by the representatives of the other American Republics, but also by those of the United States. The proposed convention was placed before the United States Senate for approval, but was subsequently withdrawn. The treaty was opposed principally on the ground that the provisions of the convention, if applied to the United States, would give force and effect to patents issued in accordance with the laws of any of the States adhering to the convention, notwithstanding the fact that some of these States granted patents without previous inquiry as to the usefulness of the article as to whether it was really an invention or an improvement. It was shown that the patent laws of the United States require a careful examination to be made of the state of the prior art to determine whether the invention claimed was new and useful as a prerequisite to the grant of a patent;

and it was urged that this system, which is in effect the basis of the commercial progress of the United States, should be maintained in its entirety.

It was also shown that the carrying out of the convention would oblige the United States to furnish authenticated copies of patents, assignments of records, and other documents, imposing an enormous and needless burden upon that country. And the further ground of objection was presented that the treaty would have been in conflict with the most advanced systems and particularly inconsistent with the Paris convention of 1883, the merits of which have been recognized by previous Pan American conferences.

We have the honor to report that the three distinct conventions adopted by the conference can be entered into by the United States without disruption of its own patent, trade-mark, and copyright laws, and will not interfere with the internal laws of the other American Republics.

The conventions finally adopted are substantially the same as those drafted by Mr. Edward B. Moore, the Commissioner of Patents, who accompanied the delegation as expert attaché. The conventions are so drafted that they will harmonize (a) with the International Convention for the Protection of Industrial Property, signed at Paris in 1883, and amended at Brussels in 1900, to which the majority of the European nations are adherents; (b) with the treaty of Paris in 1891, which provides for the international registration of trade-marks, and to which several of the European nations are adherents; and (c) with some modifications, harmonize with the copyright treaty of Mexico.

PATENTS.

In the drafting of the convention on patents (Appendix J) the conference has taken into consideration the objections raised by many of the States to the Rio convention, and has respected the provisions of the internal laws of the several signatory States. General principles protecting and safeguarding the rights of inventors are proclaimed, and the way is made easy for future uniform and universal legislation. While certain portions of the treaties of Paris and of Brussels have been adopted, it is provided that the present convention be considered as a substitute for all former treaties on the subject, and it is recommended that it be finally adopted by the signatory States as a basis for the enactment of their respective patent laws.

TRADE-MARKS.

The Convention for the Protection of Trade-Marks (Appendix K) declares that any mark duly registered in one of the signatory States shall be considered as also registered in the other States, without prejudice to the rights of third persons or to the provisions of the laws of each State governing the same. Provision is made for the payment of a small fee to cover the expenses of the international registration. It provides that the deposit of a mark in one State produces in favor of the depositor a right of priority for a period of six months, so as to enable him to make the deposit in the other States. Trade-marks are then defined. Questions arising as to

the priority of the adoption of a trade-mark must be decided with due regard to the date of the deposit in the country where the first application therefor was made. Provision is made that the falsification, imitation, or unauthorized use of a trade-mark, as also the false representation as to the origin of the product, can be prosecuted by the interested party in accordance with the laws of the State wherein the offense is committed. The grounds upon which trade-marks can be canceled are also stated. Commercial names are protected without deposit or registration, whether they form part of a trade-mark or not. The convention also provides for the establishment of international bureaus at Havana and Rio de Janeiro, and defines the duties of the same. The registration of a trade-mark obtained in any one of the signatory States is made effective throughout all the Republics represented in the conference, upon a certificate of ownership thereof, issued by such State, being registered in either of the international bureaus.

This form of international registration differs from that set forth in the Rio convention, wherein it is provided that the registration of a trade-mark secured in either of the two bureaus is made effective throughout all of the States, as if made in each of the several signatory States, save that any State is allowed one year from the date of ratification by the bureau within which to accept or reject such registration.

It is believed that the adoption of this convention will promote comity and commerce among the several Republics, and, to that end, it is hoped that such action will be taken by our Government at the earliest possible moment.

COPYRIGHTS.

In framing the Copyright Convention (Appendix L) the end kept in view was to provide legal protection in all the countries of the Union for works produced in any one or more of these countries, and for works produced anywhere by citizens of one of the signatory States. It was proposed at the same time to make this protection effective without an international court or bureau, relying instead on the laws of the several countries for the maintenance of the rights guaranteed by this convention. In pursuance of this purpose it was found advisable not to adopt the provisions for two bureaus contained in the convention signed at Rio de Janeiro, August 23, 1906, and which has been adopted as regards trade marks. These bureaus appear to be unnecessary and calculated to render impracticable any convention embodying them. While the effectiveness of the present convention will depend upon the existence of proper and well-executed copyright laws in the several countries, it was not thought desirable to seek, through the ratification of this convention, to pledge each country to adopt such copyright laws as might be necessary for a satisfactory execution thereof, in case such laws were not already in existence. In any case where the requisite legislation had not been adopted the nation concerned might avoid the obligations of such a proposed pledge by simply refusing to ratify the convention; and any nation, finding it advantageous to proceed under a legal system that afforded no protection to the works of foreign authors, or even to the works of the authors of the country in question, might not be expected

to expedite the adoption of new laws, except under some motive more powerful than that offered by a suggested pledge presented in this convention.

It is desirable that the laws of the several States should provide for a uniform general term of copyright protection; and if any nation has established a shorter term than the legal term established in other nations it may be supposed that, desirous of securing to its own authors rights as extensive as those enjoyed by the authors of other countries, it will, on its own initiative, so modify its laws as to bring them into harmony with the legislation of the other nations of the Union.

In adopting this convention the conference has aimed at effectiveness by avoiding impracticable details of organization. It has sought to secure, with a minimum of formality, trouble, and cost, protection in all countries of the Union for all works that may be made subject to a law of copyright. The definition of works for which protection is sought under this convention is made sufficiently comprehensive to embrace "every production which can be published by any means whatsoever of impression or republication." The right of property in any such production recognized in any State in accordance with its laws shall have full recognition in all the other States, without compliance with any formality other than that there shall appear in or on the work in question an indication that the right of property in it is reserved. The authors of the works protected under this convention, or their assigns, shall enjoy in the signatory countries the rights which the laws of these countries respectfully confer; but in no case shall the term of protection accorded exceed that of the country of origin, the country of origin being defined as that in which the work is first published. Authorized translations also are protected in the same manner as original works.

In conclusion we beg to say that great interest was manifested by the members of the committee on patents and trade-marks in the meeting of the international union for the protection of industrial property, which is to be held in Washington in May, 1911, and to which all the American Republics have been invited.

The report of the committee on copyrights will be found in Appendix LL.

TREATY FOR THE ARBITRATION OF PECUNIARY CLAIMS.

The eleventh subject of the program of the conference was the "consideration of the continuance of the treaties on pecuniary claims after their expiration."

By the Second International American Conference, held in the City of Mexico, a treaty was concluded, January 19, 1902, by which the high contracting parties agreed (Art. I) "to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens, and which can not be amicably adjusted through diplomatic channels, when said claims are of sufficient importance to warrant the expenses of arbitration." It was further agreed (Art. II) that all controversies embraced in the treaty should be submitted to the decision of the Permanent Court of Arbitration established under the Convention for the Pacific Settlement of International Disputes, signed at The Hague, July 29, 1899, unless the parties to the dispute

should prefer to create a special jurisdiction; but as the American nations, with the exception of the United States and Mexico, were not represented in the first Hague conference, it was provided (Art. III) that the treaty should be obligatory only upon States which had subscribed to that convention and upon those which should ratify the protocol, just then adopted at Mexico, looking to the adhesion of all the American States thereto. Finally, it was stipulated (Art. V) that the treaty should be binding upon the ratifying States from the date on which five of them should have ratified it, and that it should remain in force for five years.

By reason of this limitation, the question of renewing the treaty was one of the subjects committed to the Third International American Conference, which was held at Rio de Janeiro in 1906. In its instructions to its delegates to that conference the Government of the United States said:

This is matter special to the American States and it calls for special consideration * * *. The treaty was to continue for five years. It has been ratified by only five powers, including the United States. The treaty should be extended for another five years, and an urgent effort should be made to secure the adherence of the other powers. You can readily ascertain whether the failure of ratification by twelve out of the seventeen powers who signed the treaty was due to some objectionable feature which can be remedied, or to fundamental objections, or to indifference. This treaty is the very simplest and narrowest form of a general agreement to arbitrate, and so long as three-fourths of the American States have not reached this point of agreement the discussion of any proposals for compulsory arbitration of a wider scope would seem to be at least premature.

When the question of renewing the treaty came to be considered by the committee to which it was referred, it gave rise to much discussion. It seems to have been ascertained that the treaty had in fact been ratified by eight, instead of by only five, of the signatory States, namely, by the United States, Mexico, Nicaragua, Guatemala, Salvador, Honduras, Peru, and Bolivia; but a large majority of the committee desired to modify it by adding a clause to the effect that arbitration should take place only after the legal recourses afforded by the courts of the country against which the claim was made had been exhausted, the reason assigned for this proposal being that the phraseology of the first article of the treaty lent itself to the interpretation that the ordinary course of justice existing under the internal organization of each signatory State was to be superseded by international arbitration. The minority of the committee maintained that this objection was not well founded, but it was only after much discussion and delay that a report satisfactory to the majority of the committee and acceptable to the minority was secured unanimously recommending that the treaty be extended. This report contained the following paragraphs:

This partial ratification (of the treaty by the eight powers above named) may, perhaps, have been due to the precise terms in which the first article provides for arbitral jurisdiction, this being possibly interpreted to mean that the inherent internal rights and prerogatives of a State were in all cases to be substituted by an arbitral tribunal whose jurisdiction could not be avoided.

It is clear that such an interpretation is not well founded. If it be established that all claims for losses and damages brought against a State by the citizens of another must be submitted to arbitration, when they can not be adjusted through diplomatic channels, it is but reasonable to presume that there are cases in which diplomatic intervention is justified.

The internal sovereignty of a State, an essential condition of its existence as an independent international power, consists explicitly in the right it always preserves

of regulating such juridical acts as are consummated within its territory, by its laws, and of trying these by its tribunals, excepting in cases where, for special reasons (and to these international law devotes particular attention), they are converted into questions of an international character.

It was deemed advisable, however, to amend the treaty by striking out the third article, the substance of which is given above, the provisions of this article having ceased to be applicable to existing conditions because of the adhesion of the American nations, after the conference at Mexico, to The Hague convention of 1899. Moreover, as the term of five years, during which the treaty was to remain in force, was understood to run as to each contracting party from the date of its act of ratification, it was decided to fix one uniform day on which the treaty, as amended and renewed, should terminate; and the day adopted for this purpose was December 31, 1912. A treaty designed to accomplish these objects was accordingly signed August 13, 1906.

Such being the situation, we were instructed, "as The Hague general arbitration treaties, which were adhered to by most American Republics in 1907," did not "satisfactorily cover the subject," to "urge the continuance of the treaties on pecuniary claims after their expiration," and, if any government represented in the conference should desire to discontinue them, to ascertain its reasons therefor.

According to the advices received by the department previously to our departure, the treaties of Mexico and Rio had been ratified by eight powers, namely, the United States, Chile, Colombia, Costa Rica, Cuba, Guatemala, Mexico, and Nicaragua. By the summary submitted, however, to the conference by the third committee of the reports and memorials presented by the various delegations, it appears that there should be added to the list Ecuador, Honduras, Panama, and Salvador, making 12 Governments in all.¹

The question of continuing the treaties was referred to a committee composed as follows: Dr. Gonzalo Ramirez (Uruguay), chairman; Mr. Mario Estrada (Guatemala), secretary; and Messrs. John B. Moore (United States), Eduardo L. Bidau (Argentine Republic), Gastão da Cunha (Brazil), Américo Lugo (Dominican Republic), and Victoriano Salado Alvarez (Mexico).

After the first formal session of the committee a draft of a new treaty, to replace the treaties of Mexico and Rio, was communicated by the chairman to the other members. This project contained the following article:

ARTICLE II. In case the nation against which the claim is made does not admit the procedure by the diplomatic channel, the arbitral tribunal shall treat this point of difference as a preliminary question, and if it decides that the diplomatic procedure is not appropriate, the claim shall be dismissed.

If this preliminary question shall be resolved in favor of the procedure by the diplomatic way, the arbitral tribunal shall then take cognizance of the merits of the case.¹

It will be observed that this proposal revived, in a specific but more pointed form, the question which provoked so much discussion and proved to be so difficult of adjustment at Rio in 1906. It was re-

¹ The dates of ratification are as follows: United States, Mar. 2, 1907; Chile, June 28, 1909; Colombia, Aug. 29, 1908; Costa Rica, Oct. 28, 1908; Cuba, Mar. 17, 1908; Ecuador, November, 1909; Guatemala, Apr. 20, 1907, and Feb. 15, 1909; Honduras, Feb. 5, 1907; Mexico, Nov. 18, 1907; Nicaragua, Feb. 20, 1908; Panama, date not given; Salvador, May 11, 1907. The situation in the nonratifying countries was as follows: Argentine Republic, approved by the Chamber of Deputies, but still pending in the Senate; Brazil, pending in the Congress; Dominican Republic, Haiti, and Paraguay, no statement presented; Peru, pending in the Congress; Uruguay, not sent to the legislative body; Venezuela, no statement presented.

ceived by the committee with general approval. It was opposed by the member from the United States on the ground that it tended to limit the freedom of diplomatic action; that it would have the effect of inviting denials of the propriety of such action, and of dividing, delaying, and complicating the process of arbitration; and that it would be incapable of exact execution, for the reason that the question whether diplomatic intervention was justified could not usually be determined without an examination of the merits of the case. In the midst of this division of opinion, a solution was at one time suggested to the effect that the tribunal of arbitration should be required to decide all questions submitted to it, but this suggestion found little support, since it was not thought to be desirable to impose upon the arbitrators the burden of deciding questions which might be altogether immaterial to the proper disposition of the case before them. Finally, the member from the United States urged that the attempt to make substantial changes should be deferred till the apprehended defect should actually be shown to exist and that this position was all the more reasonable in view of the circumstance that none of the ratifying Governments had complained of the manner in which the treaties had operated. In the end, it was, after much discussion, agreed to adhere to the text of the first article of the treaty of Mexico, with the addition, proposed by the member from the United States, of the stipulation that the decision of the arbitrators should "be rendered in accordance with the principles of international law," this formula, or its equivalent, having usually been inserted in the general claims conventions of the United States, although it may be regarded as a declaration of the obvious intention of the contracting parties.

The preservation of the terms of submission of the treaty of Mexico, without qualification or impairment, having been secured, the committee readily concurred in the view that, as that treaty, although it had been amended at Rio, would by reason of its reference to certain articles of The Hague convention of 1899, which has been replaced by the convention of 1907, have to be amended yet again, it would be more convenient and more businesslike to make the new treaty complete in itself and to cast it in such form as to render unnecessary its recurrent adjustment to possible changes in The Hague conventions. This was done. Moreover, as the renewal of the treaties of Mexico and Rio had been attended with difficulties, it was proposed by the representative of the United States that the duration of the new agreement should be made indefinite, subject to the right of a ratifying power to withdraw after two years' notice. This proposal was adopted, and a clause was added continuing in force the treaty of Mexico after December 31, 1912, as to any claims which might, prior to that date, have been submitted to arbitration under its provisions.

After a final agreement was reached on the text of the treaty the previous discussions as to the question of diplomatic intervention were revived over the draft of a report which was presented by the chairman of the committee. In this paper, in which there was an exposition of general principles, interwoven with quotations from writers, certain expressions of public men were cited as tending to show that the question of the propriety of the resort to the diplomatic channel might be treated as a previous or preliminary question, apart from the merits of the case. In this predicament the member from the United

States deeming himself to be precluded, for reasons which have been sufficiently explained, from accepting all the conclusions of the report, proposed to add to it and to sign for himself the following declaration:

The undersigned, while he refrains from entering into a discussion of the statements of general principles embodied in the foregoing report, deems it proper to observe that he does not consider it to be practicable to lay down in advance precise and unyielding formulas by which the question of a denial of justice may in every instance be determined. Still less does he believe it to be possible to treat this matter as a preliminary question which may be decided apart from the merits of the case, or to include in a general treaty of arbitration a clause to that effect. In the multitude of cases that have, during the past 120 years, been disposed of by international arbitration the question of a denial of justice has arisen in many and in various forms that could not have been foreseen; nor can human intelligence forecast the forms in which it may arise hereafter. In the future, as in the past, this question will be disposed of by the amicable methods of diplomacy and arbitration, and in that spirit of mutual respect and conciliation which happily grows stronger among nations with the lapse of years.

As it was thought that this declaration would, if dealt with in the manner proposed, have the appearance and effect of a minority report, it was at length agreed that it should be embodied in the report of the committee (Appendix MM), where it is followed by the statement that the other members of the committee accept it, since they do not consider it to be in conflict with what is set forth in the report. In this way the unanimous desire of the committee for a report which should bear the signatures of all its members was happily attained.

It is a pleasure specially to acknowledge the untiring efforts which the eminent chairman of the committee put forth to expedite its labors. As he was at the time indisposed, the meetings of the committee were usually held at the house of the Uruguayan Legation, of which he was the head; but in accordance with his wishes, they were held by special appointment, without regard to official notices, whenever, in the day or in the evening, the members could conveniently assemble; and they were thus not only more frequent but longer in duration than was customary. There can be no doubt that the attainment of the desire, felt by every member of the committee, for a prompt and satisfactory termination of its labors, was facilitated by the example of industry and high purpose set by the venerable man who presided over its deliberations and by the feeling of deep respect in which he was held.

The treaty (Appendix M) was adopted by the conference unanimously, the Venezuelan delegate stating, however, that Venezuela would sign the treaty with the special reservation that recourse to diplomacy should take place only when there had been a denial of justice.

INTERCHANGE OF UNIVERSITY PROFESSORS.

For the purpose of promoting in each of the American nations a more perfect understanding of the intellectual life of the others, two series of resolutions were framed and adopted by the conference, relating to the interchange of professors and students among the universities of the countries represented in the conference. The first series recommends that provisions should be made under which professors in one university may be sent from time to time to give lectures or courses of instruction in other universities, such lectures or courses of instruction to deal chiefly with scientific material of special interest to Americans or with the conditions of one or another

American country, especially with the conditions of that country to which the professor in any given case may belong. The second series of resolutions recognizes the interchange of students among American universities as a means of confirming the solidarity of the nations of the continent. The details of the methods suggested for effecting these interchanges are contained in the resolutions already referred to and which are submitted with this report. (Appendix X.)

APPRECIATION OF THE PAN AMERICAN SCIENTIFIC CONGRESS HELD AT SANTIAGO, CHILE, DECEMBER, 1908.

In pursuance of your instructions on this subject, the delegation of the United States supported a resolution, which was adopted, to the effect that the conference noted with pleasure the initiative of holding a Pan American Scientific Congress at Santiago, Chile, and the results there accomplished; also that the Governments of the American States be informed that the conference would consider advisable similar reunions in cities of America to be hereafter selected. The text of this resolution will be found in Appendix Y.

A resolution was also adopted regarding the Fourth Scientific Congress, held at Buenos Aires in 1910, congratulatory of the work there accomplished and expressing the hope that these reunions should be frequent. (Appendix Z.)

OPENING OF THE PANAMA CANAL.

The program called for the adoption of a resolution instructing the governing board of the International Bureau of the American Republics to consider and recommend the manner in which the American Republics might see fit to celebrate the opening of the Panama Canal. After some discussion the second committee decided to report to the conference a resolution, which was passed, whereby the final settlement of that question is left to the governing board of the Union of American Republics in Washington. This resolution will be found in Appendix AA.

FUTURE CONFERENCES.

The subject of the time and place of the next conference was disposed of by the committee to which it was referred at its first and only meeting. There was considerable discussion privately among the delegates prior to the meeting of the committee and a large number thought that the conference should select Santiago, the capital city of Chile, as the logical point where the Fifth International Conference of American States should be held. It was urged by some, on the other hand, that the precedent established by the conference held in the City of Mexico, and substantially followed by the one held in Rio, leaving the decision of both place and time of subsequent conferences to the governing board of the Pan American Union should be adhered to and at the first meeting of the committee on future conferences the delegate from Chile moved that the entire subject matter be left to the decision of the governing board. This motion prevailed, and the committee reported accordingly to the conference. When the resolution came up for adoption by the conference there

was one dissenting vote. The delegate from the Dominican Republic voted in the negative, and, in explaining his vote, stated that he was of the opinion that Havana, Cuba, should be named as the place for the holding of the next conference.

The delegate of the United States of America, pursuant to instructions, urged in committee the advisability of holding the conferences at intervals of six years as a minimum and thereby affording sufficient time for the ratification of the conventions adopted at the various conferences, but he deferred to the otherwise unanimous wish of the committee that an interval of not more than five years should elapse between the reunions. The resolution finally adopted provides that the governing board shall have the power to advance or postpone the date of the next conference should circumstances arise making it desirable so to do.

GENERAL WELFARE.

The committee on general welfare was chiefly negative in its activity. It was expected, among other things, to consider questions on which action might be requested, but which had not been introduced into the program. Its chief function was, therefore, to consider new topics that might be proposed, and to make recommendations to the conference respecting them. In this capacity its work was important in that through it the conference was able to keep itself free from discussions that might have consumed much time and would have been fruitless. The members of this committee, as well as the majority of the members of the conference, appreciated the necessity of giving to the topics of the program the most thorough consideration; and that this might be done, it appeared to be a reasonable rule for the guidance of the committee to withhold from the general sessions all subjects not involved in the program unless they should seem to the members extraordinarily urgent. The maintenance of this feature of organization in future conferences will greatly facilitate the work demanded by the specific program and enable the conference in its general sessions peacefully to avoid discussions on questions regarding which no practicable or profitable result can be reached.

CLOSING SESSIONS.

The last session for the transaction of business took place on the 27th of August.

The thanks of the delegates were voted unanimously to the president, Dr. Bermejo; to the secretary general and his staff; and to the press of the Argentine Republic. The president and secretary general made speeches, translations of which will be found in Appendix D.

On a motion signed by Messrs. Portela, Toledo Herrarte, Cruz, Lazo Arriaga, and Mejía, respectively ministers to the United States of the Argentine Republic, Guatemala, Chile, Honduras, and Salvador, and of Gen. Carlos García Velez, formerly Cuban minister at Washington, being all members of the governing board of the International Bureau of the American Republics when the program of the Fourth Conference was settled, it was unanimously voted to send a telegram to the Hon. P. C. Knox, Secretary of State of the

United States, thanking him for the part he had taken in the arrangement of the program and congratulating him upon the success of the conference.

At the previous session of the conference, upon the motion of a delegate from Brazil, it was unanimously voted that a telegram be sent to the Hon. Elihu Root, expressing sentiments of appreciation and remembrance.

The closing session of the conference was held on Tuesday, August 30, Dr. Carlos Rodriguez Larreta, who had succeeded Dr. Victorino de la Plaza as minister for foreign affairs, being in the chair. His excellency made a speech, to which Dr. Toledo Herrarte, minister of Guatemala to the United States and chairman of his delegation, replied. Translations of these speeches accompany this report as Appendix E.

CONCLUSION.

We feel that it is scarcely within our province to compare the results of this conference with those of its predecessors; the more so as sufficient time has not elapsed since it came to an end for the formation of an accurate opinion on that subject. It may not be improper, however, to say that while the program was not so extensive as those of the three preceding conferences, every subject upon it was effectively dealt with. There can be no doubt, moreover, that quite apart from the actual work accomplished, the constant intercourse and exchange of views in friendly conversation, during a period of nearly two months, between representative men from all parts of America in an atmosphere of harmony such as has been so marked a feature of this conference, can not fail to react upon and to draw closer the relations between the countries represented.

Indeed, a distinct improvement has already been perceptible during the progress of the conference in the relations between several of the Republics, and in our opinion it is difficult to overestimate the advantage to the cause of Pan Americanism to be derived from the periodical meetings of these international conferences.

We can not conclude this report without an allusion to the generous hospitality of which we have been the recipients here. Many entertainments have been given and excursions to places of interest arranged for the delegates to the conference, and we retain an agreeable recollection of the kindness and courtesy of everyone with whom we have come in contact; nor should we omit a special acknowledgment of the courtesy and cooperation of our minister, Mr. Sherrill, and the staff of the legation. We have the honor to be, sir,

Your obedient servants,

HENRY WHITE.
E. H. CROWDER.
LEWIS NIXON.
JOHN B. MOORE.
BERNARD MOSES.
LAMAR C. QUINTERO.
PAUL S. REINSCH.
DAVID KINLEY.

To the Hon. PHILANDER C. KNOX,
Secretary of State.

BUENOS AIRES, *August 30, 1910.*

APPENDIX A.

Program of the Fourth International Conference of the American Republics to be held at Buenos Aires, Argentine Republic, July 10, 1910.

I.

The organization of the conference.

II.

Commemoration of the Argentine national centenary and of the independence of the American Republics as suggested by the fact that many of those nations celebrate their national centenaries in 1910 and neighboring years.

III.

Submission and consideration of the reports of each delegation as to the action of their respective Governments upon the resolutions and conventions of the third conference held at Rio de Janeiro in July, 1906, including a report upon the results accomplished by the Pan-American committees and the consideration of the extension of their functions.

IV.

Submission and consideration of the report of the Director of the International Bureau of the American Republics, together with consideration of the present organization and of the recommendations for the possible extension and improvement of its efficiency.

V.

Resolution expressing appreciation to Mr. Andrew Carnegie of his generous gift for the construction of the new building of the American Republics in Washington.

VI.

Report on the progress which has been made on the Pan-American Railway since the Rio conference, and consideration of the possibility of cooperative action among the American Republics to secure the completion of the system.

VII.

Consideration of the conditions under which the establishment of more rapid mail, passenger, and express steamship service between the American Republics can be secured.

VIII.

Consideration of measures which will lead to uniformity among the American Republics in consular documents and the technical requirements of customs regulations, and also in census and commercial statistics.

IX.

Consideration of the recommendation of the Pan-American sanitary congresses in regard to sanitary police and quarantine and of such additional recommendations as may tend to the elimination of preventable diseases.

X.

Consideration of practicable arrangement between the American Republics covering patents, trade-marks, and copyrights.

XI.

Consideration of a continuance of the treaties on pecuniary claims after their expiration.

XII.

Consideration of a plan to promote the interchange of professors and students among the universities and academies of the American Republics.

XIII.

Resolution in appreciation of the Pan-American Scientific Congress, held at Santiago, Chile, December, 1908.

XIV.

Resolution instructing the governing board of the International Bureau of the American Republics to consider and recommend the manner in which the American Republics may see fit to celebrate the opening of the Panama Canal.

XV.

Future conferences.

Adopted by the committee on program, November 6, and approved by the governing board of the International Bureau of the American Republics at the meeting of November 10, 1909.

P. C. KNOX,
Chairman ex officio.

FRANCISCO J. YANES, *Secretary.*

Appendix J.

CONVENTIONS ADOPTED AT THE CONFERENCE.

CONVENTION.

Inventions, patents, designs, and industrial models.

Their Excellencies the Presidents of the United States of America, the Argentine Republic, Brazil, Chili, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, and Venezuela:

Being desirous that their respective countries may be represented at the Fourth International American Conference, have sent thereto the following delegates, duly authorized to approve the recommendations, resolutions, conventions and treaties which they might deem advantageous to the interests of America.

United States of America: Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul Samuel Reinsch, David Kinley.

Argentine Republic: Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Rodríguez Larreta, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

United States of Brazil: Joaquin Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.

Republic of Chili: Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

Republic of Colombia: Roberto Ancízar.

Republic of Costa Rica: Alfredo Volio.

Republic of Cuba: Carlos García Vélaz, Rafael Montoro y Valdéz, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

Dominican Republic: Américo Lugo.

Republic of Ecuador: Alejandro Cárdenas.

Republic of Guatemala: Luís Toledo Herrarte, Manuel Arroyo, Mario Estrada.

Republic of Haiti: Constantin Fouchard.

Republic of Honduras: Luís Lazo Arriaga.

United Mexican States: Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

Republic of Nicaragua: Manuel Pérez Alonso.

Republic of Panama: Belisario Porras.

Republic of Paraguay: Teodosio González, José P. Montero.

Republic of Peru: Eugenio Larrabure, y Unánue, Carlos Alvarez Calderón, José Antonio de Lavalle y Pardo.

Republic of Salvador: Federico Mejía, Francisco Martínez Suárez.

Republic of Uruguay: Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

United States of Venezuela: Manuel Díaz Rodríguez, César Zumeta.

Who, after having presented their credentials, and the same having been found in due and proper form, have agreed upon the following convention:

ARTICLE I.

The subscribing nations enter into this convention for the protection of patents of invention, designs, and industrial models.

ARTICLE II.

Any persons who shall obtain a patent of invention in any of the signatory States shall enjoy in each of the other States all the advantages which the laws relative to patents of invention, designs, and industrial models concede. Consequently, they shall have the right to the same protection and identical legal remedies against any attack upon their rights, provided they comply with the laws of each State.

ARTICLE III.

Any person who shall have regularly deposited an application for a patent of invention or design or industrial model in one of the contracting States shall enjoy, for the purposes of making the deposit in the other States, and under the reserve of the rights of third parties, a right of priority during a period of twelve months for patents of invention, and of four months for designs or industrial models.

Therefore, the deposit subsequently made in any other of the signatory States before the expiration of these periods can not be invalidated by acts performed in the interval, especially by other deposits, by the publication of the invention or its working, or by the sale of copies of the design or of the model.

ARTICLE IV.

When, within the terms fixed, a person shall have filed applications in several States for the patent of the same invention, the rights resulting from patents thus applied for shall be independent of each other.

They shall also be independent of the rights arising under patents obtained for the same invention in countries not parties to this convention.

ARTICLE V.

Questions which may arise regarding the priority of patents of invention shall be decided with regard to the date of the application for the respective patents in the countries in which they are granted.

ARTICLE VI.

The following shall be considered as inventions: A new manner of manufacturing industrial products; a new machine or mechanical or manual apparatus which serves for the manufacture of said products; the discovery of a new industrial product; the application of known methods for the purpose of securing better results; and every new, original, and ornamental design or model for an article of manufacture.

The foregoing shall be understood without prejudice to the laws of each State.

ARTICLE VII.

Any of the signatory States may refuse to recognize patents for any of the following causes:

(a) Because the inventions or discoveries may have been published in any country prior to the date of the invention by the applicant;

(b) Because the inventions have been registered, published, or described in any country more than one year prior to the date of the application in the country in which the patent is sought;

(c) Because the inventions have been in public use, or have been on sale in the country in which the patent has been applied for, one year prior to the date of said application;

(d) Because the inventions or discoveries are in some manner contrary to morals or laws.

ARTICLE VIII.

The ownership of a patent of invention comprises the right to enjoy the benefits thereof, and the right to assign or transfer it in accordance with the laws of the country.

ARTICLE IX.

Persons who incur civil or criminal liabilities, because of injuries or damage to the rights of inventors, shall be prosecuted and punished in accordance with the laws of the countries wherein the offence has been committed or the damage occasioned.

ARTICLE X.

Copies of patents certified in the country of origin, according to the national law thereof, shall be given full faith and credit as evidence of the right of priority, except as stated in Article VII.

ARTICLE XI.

The treaties relating to patents of invention, designs or industrial models, previously entered into between the countries subscribing to the present convention, shall be superseded by the same from the time of its ratification in so far as the relations between the signatory States are concerned.

ARTICLE XII.

The adhesion of the American nations to the present convention shall be communicated to the Government of the Argentine Republic in order that it may communicate them to the other States. These communications shall have the effect of an exchange of ratifications.

ARTICLE XIII.

A signatory nation that sees fit to retire from the present convention shall notify the Government of the Argentine Republic, and one year after the receipt of the communication the force of this convention shall cease, in so far as the nation which shall have withdrawn its adherence is concerned.

In witness whereof, the plenipotentiaries have signed the present treaty and affixed thereto the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires on the 20th day of August, in the year one thousand nine hundred and ten, in Spanish, English, Portuguese, and French, and deposited in the Ministry of Foreign Affairs of the Argentine Republic, in order that certified copies be made for transmission to each of the signatory nations through the appropriate diplomatic channels.

For the United States of America.—Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul S. Reinsch, David Kinley.

For the Argentine Republic.—Antonio Bermejo, Eduardo L. Bidau, Manual A. Montes de Oca, Epifanio Portela, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

For the United States of Brazil.—Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculanio de Freitas.

For the Republic of Chile.—Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

For the Republic of Colombia.—Roberto Ancizar.

For the Republic of Costa Rica.—Alfredo Volio.

For the Republic of Cuba.—Carlos García Vélez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

For the Dominican Republic.—Américo Lugo.

For the Republic of Ecuador.—Alejandro Cárdenas.

For the Republic of Guatemala.—Luis Toledo Herrarte, Manuel Arroyo, Mario Estrada.

For the Republic of Haiti.—Constantin Fouchard.

For the Republic of Honduras.—Luis Lazo Arriaga.

For the United Mexican States.—Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

For the Republic of Nicaragua.—Manuel Pérez Alonso.

For the Republic of Panama.—Belisario Porras.

For the Republic of Paraguay.—Teodosio González, José P. Montero.

For the Republic of Peru.—Eugenio Larrabure y Unánue, Carlos Alvarez Calderón, José Antonio de Lavalle y Pardo.

For the Republic of Salvador.—Federico Mejía, Francisco Martínez Suárez.

For the Republic of Uruguay.—Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

For the United States of Venezuela.—Manuel Díaz Rodríguez, César Zumeta.

CONVENTION.

Protection of trade-marks.

Their Excellencies the Presidents of the United States of America, the Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference, have sent thereto the following delegates, duly authorized to approve the recommendations, resolutions, conventions, and treaties which they might deem advantageous to the interest of America:

United States of America: Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul Samuel Reinsch, David Kinley.

Argentine Republic: Antonio Bernejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Rodríguez Larreta, Carlos Salas José A. Terry, Estanislao S. Zeballos.

United States of Brazil: Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.

Republic of Chile: Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

Republic of Colombia: Roberto Ancizar.

Republic of Costa Rica: Alfredo Volio.

Republic of Cuba: Carlos García Vélez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

Dominican Republic: Américo Lugo.

Republic of Ecuador: Alejandro Cárdenas.

Republic of Guatemala: Luis Toledo Herrarte, Manuel Arroyo, Mario Estrada.

Republic of Haiti: Constantin Fouchard.

Republic of Honduras: Luis Lazo Arriaga.

United Mexican States: Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Estava Ruiz.

Republic of Nicaragua: Manuel Pérez Alonso.

Republic of Panama: Belisario Porras.

Republic of Paraguay: Teodosio González, José P. Montero.

Republic of Peru: Eugenio Larrabure, y Unánue, Carlos Álvarez Calderón, José Antonio de Lavalle y Pardo.

Republic of Salvador: Federico Mejía, Francisco Martínez Suárez.

Republic of Uruguay: Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

United States of Venezuela: Manuel Díaz Rodríguez, César Zumeta.

Who, after having presented their credentials and the same having been found in due and proper form, have agreed upon the following Convention for the Protection of Trade-Marks.

ARTICLE I.

The signatory nations enter into this convention for the protection of trade-marks and commercial names.

ARTICLE II.

Any mark duly registered in one of the signatory States shall be considered as registered also in the other States of the Union, without prejudice to the rights of third persons and to the provisions of the laws of each State governing the same.

In order to enjoy the benefit of the foregoing, the manufacturer or merchant interested in the registry of the mark must pay, in addition to the fees or charges fixed by the laws of the State in which application for registration is first made, the sum of fifty dollars gold, which sum shall cover all the expenses of both bureaux for the international registration in all the signatory States.

ARTICLE III.

The deposit of a trade-mark in one of the signatory States produces in favor of the depositor a right of priority for the period of six months, so as to enable the depositor to make the deposit in the other States.

Therefore, the deposit made subsequently and prior to the expiration of this period, can not be annulled by acts performed in the interval, especially by another deposit, by publication, or by the use of the mark.

ARTICLE IV.

The following shall be considered as trade-mark: Any sign, emblem, or especial name that merchants or manufacturers may adopt or apply to their goods or products in order to distinguish them from those of other manufacturers or merchants who manufacture or deal in articles of the same kind.

ARTICLE V.

The following can not be adopted or used as trade-mark: National, provincial, or municipal flags or coats of arms; immoral or scandalous figures; distinctive marks which may have been obtained by others or which may give rise to confusion with other marks; the general classification of articles; pictures or names of persons without their permission; and any design which may have been adopted as an emblem by any fraternal or humanitarian association.

The foregoing provisions shall be construed without prejudice to the particular provisions of the laws of each State.

ARTICLE VI.

All questions which may arise regarding the priority of the deposit, or the adoption of a trade-mark, shall be decided with due regard to the date of the deposit in the State in which the first application was made therefor.

ARTICLE VII.

The ownership of a trade-mark includes the right to enjoy the benefits thereof, and the right of assignment or transfer in whole or in part of its ownership or its use in accordance with the provisions of the laws of the respective States.

ARTICLE VIII.

The falsification, imitation, or unauthorized use of a trade-mark, as also the false representation as to the origin of a product, shall be prosecuted by the interested party in accordance with the laws of the State wherein the offense is committed.

For the effects of this article, interested parties shall be understood to be any producer, manufacturer, or merchant engaged in the production, manufacture, or traffic of said product, or in the case of false representation of origin, one doing business in the locality falsely indicated as that of origin, or in the territory which said locality is situated.

ARTICLE IX.

Any person in any of the signatory States shall have the right to petition and obtain in any of the States, through its competent judicial authority, the annulment of the registration of a trade-mark, when he shall have made application for the registration of that mark, or of any other mark calculated to be confused, in such State, with the mark in whose annulment he is interested, upon proving:

(a) That the mark, the registration whereof he solicits, has been employed or used within the country prior to the employment or use of the mark registered by the person registering it or by the persons from whom he has derived title.

(b) That the registrant had knowledge of the ownership, employment, or use in any of the signatory States of the mark of the applicant, the annulment whereof is sought, prior to the use of the registered mark by the registrant or by those from whom he has derived title.

(c) That the registrant had no right to the ownership, employment, or use of the registered mark on the date of its deposit.

(d) That the registered mark had not been used or employed by the registrant or by his assigns within the term fixed by the laws of the State in which the registration shall have been made.

ARTICLE X.

Commercial names shall be protected in all the States of the Union, without deposit or registration, whether the same form part of a trade-mark or not.

ARTICLE XI.

For the purposes indicated in the present convention a union of American nations is hereby constituted, which shall act through two international bureaux established, one in the city of Havana, Cuba, and the other in the city of Rio de Janeiro, Brazil, acting in complete accord with each other.

ARTICLE XII.

The international bureaux shall have the following duties:

1. To keep a register of the certificates of ownership of trade-marks issued by any of the signatory States.

2. To collect such reports and data as relate to the protection of intellectual and industrial property and to publish and circulate them among the nations of the union, as well as to furnish them whatever special information they may need upon this subject.

3. To encourage the study and publicity of the questions relating to the protection of intellectual and industrial property; to publish for this purpose one or more official reviews, containing the full tests or digests or all documents forwarded to the bureaux by the authorities of the signatory States.

The Governments of said States shall send to the International American Bureaus their official publications which contain the announcements of the registrations of trade-marks, and commercial names, and the grants of patents and privileges, as well as the judgments rendered by the respective courts concerning the invalidity of trade-marks and patents.

4. To communicate to the Governments of the Union any difficulties or obstacles that may oppose or delay the effective application of this convention.

5. To aid the Governments of the signatory States in the preparations of international conferences for the study of legislation concerning industrial property, and to secure such alterations as it may be proper to propose in the regulations of the Union, or in treaties in force to protect industrial property. In case such conferences take place, the directors of the bureaux shall have the right to attend the meetings and there to express their opinions, but not to vote.

6. To present to the Governments of Cuba and of the United States of Brazil, respectively, yearly reports of their labors, which shall be communicated at the same time to all the Governments of the other States of the Union.

7. To initiate and establish relations with similar bureaux, and with the scientific and industrial associations and institutions for the exchange of publications, information, and data conducive to the progress of the protection of industrial property.

8. To investigate cases where trade-marks, designs, and industrial models have failed to obtain the recognition of registration provided for by this convention, on the part of the authorities of any one of the States forming the Union, and to communicate the facts and reasons to the Government of the country of origin and to interested parties.

9. To cooperate as agents for each one of the Governments of the signatory States before the respective authorities for the better performance of any act tending to promote or accomplish the ends of this convention.

The bureau established in the city of Havana, Cuba, shall have charge of the registration of trade-marks coming from the United States of America, Mexico, Cuba, Haiti, the Dominican Republic, Salvador, Honduras, Nicaragua, Costa Rica, Guatemala, and Panama.

The bureau established in the city of Rio de Janeiro shall have charge of the registration of trade-marks coming from Brazil, Uruguay, the Argentine Republic, Paraguay, Bolivia, Chile, Peru, Ecuador, Venezuela, and Colombia.

ARTICLE XIV.

The two international bureaux shall be considered as one, and for the purpose of the unification of the registrations it is provided:

(a) Both shall have the same books and the same accounts kept under an identical system.

(b) Copies shall be reciprocally transmitted weekly from one to the other of all applications, registrations, communications, and other documents affecting the recognition of the rights of owners of trade-marks.

ARTICLE XV.

The international bureaux shall be governed by identical regulations, formed with the concurrence of the Governments of the Republic of Cuba and of the United States of Brazil and approved by all the other signatory States.

Their budgets, after being sanctioned by the said Governments, shall be defrayed by all the signatory States in the same proportion as that established for the International Bureau of the American Republics at Washington, and in this particular they shall be placed under the control of those Governments within whose territories they are established.

The international bureaus may establish such rules of practice and procedure, not inconsistent with the terms of this convention, as they may deem necessary and proper to give effect to its provisions.

ARTICLE XVI.

The Governments of the Republic of Cuba and of the United States of Brazil shall proceed with the organization of the bureaus of the International Union as herein provided, upon the ratification of this convention by at least two-thirds of the nations belonging to each group.

The simultaneous establishment of both bureaus shall not be necessary; one only may be established if there be the number of adherent governments provided for above.

ARTICLE XVII.

The treaties on trade-marks previously concluded by and between the signatory States shall be substituted by the present convention from the date of its ratification, as far as the relations between the signatory States are concerned.

ARTICLE XVIII.

The ratifications or adhesion of the American States to the present convention shall be communicated to the Government of the Argentine Republic, which shall lay them before the other States of the Union. These communications shall take the place of an exchange of ratifications.

ARTICLE XIX.

Any signatory State that may see fit to withdraw from the present convention shall so notify the Government of the Argentine Republic, which shall communicate this fact to the other States of the Union, and one year after the receipt of such communication this convention shall cease with regard to the State that shall have withdrawn.

In witness whereof, the plenipotentiaries and delegates sign this convention and affix to it the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires, on the twentieth day of August, in the year one thousand nine hundred and ten, in Spanish, English, Portuguese, and French, and filed in the ministry of foreign affairs of the Argentine Republic in order that certified copies may be made to be forwarded through appropriate diplomatic channels to each one of the signatory Nations.

For the United States of America.—Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul S. Reinsch, David Kinley.

For the Argentine Republic.—Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

For the United States of Brazil.—Joaquim Murinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.

For the Republic of Chile.—Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

For the Republic of Colombia.—Roberto Ancizar.

For the Republic of Costa Rica.—Alfredo Volio.

For the Republic of Cuba.—Carlos García Vélaz, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

For the Dominican Republic.—Américo Lugo.

For the Republic of Ecuador.—Alejandro Cárdenas.

For the Republic of Guatemala.—Luis Toledo Herrarte, Manuel Arroyo, Mario Estrada.

For the Republic of Haiti.—Constantin Fouchard.

For the Republic of Honduras.—Luis Lazo Arriaga.

For the United Mexican States.—Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

For the Republic of Nicaragua.—Manuel Pérez Alonso.

For the Republic of Panama.—Belisario Porras.

For the Republic of Paraguay.—Teodosio González, José P. Montero.

For the Republic of Peru.—Eugenio Larrabure y Unánue, Carlos Alvarez Calderón, José Antonio de Lavalle y Pardo.

For the Republic of Salvador.—Federico Mejía, Francisco Martínez Suárez.

For the Republic of Uruguay.—Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

For the United States of Venezuela.—Manuel Díaz Rodríguez, César Zumeta.

CONVENTION.

Literary and artistic copyright.

Their Excellencies the Presidents of the United States of America, the Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference, have sent thereto the following delegates duly authorized to approve the recommendations, resolutions, conventions and treaties which they might deem advantageous to the interests of America:

United States of America: Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul Samuel Reinsch, David Kinley.

Argentine Republic: Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Rodríguez Larreta, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

United States of Brazil: Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.

Republic of Chile: Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

Republic of Colombia: Roberto Ancízar.

Republic of Costa Rica: Alfredo Volio.

Republic of Cuba: Carlos García Vélez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

Dominican Republic: Américo Lugo.

Republic of Ecuador: Alejandro Cárdenas.

Republic of Guatemala: Luis Toledo Herrarte, Manuel Arroyo, Mario Estrada.

Republic of Haiti: Constantin Fouchard.

Republic of Honduras: Luis Lazo Arriaga.

Mexican United States: Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

Republic of Nicaragua: Manuel Pérez Alonso.

Republic of Panama: Belisario Porras.

Republic of Paraguay: Teodosio González, José P. Montero.

Republic of Peru: Eugenio Larrabure y Unánue, Carlos Alvarez Calderón, José Antonio de Lavalle y Pardo.

Republic of Salvador: Federico Mejía, Francisco Martínez Suárez.

Republic of Uruguay: Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

United States of Venezuela: Manuel Díaz Rodríguez, César Zumeta.

Who, after having presented their credentials and the same having been found in due and proper form, have agreed upon the following convention on literary and artistic copyright.

1st. The signatory States acknowledge and protect the rights of literary and artistic property in conformity with the stipulations of the present convention.

2nd. In the expression "literary and artistic works" are included books, writings, pamphlets of all kinds, whatever may be the subject of which they treat, and whatever the number of their pages; dramatic or dramatico-musical works; choreographic and musical compositions, with or without words; drawings, paintings, sculpture, engravings; photographic works; astronomical or geographical globes; plans, sketches or plastic works relating to geography, geology or topography, architecture or any other science; and, finally, all productions that can be published by any means of impression or reproduction.

3rd. The acknowledgement of a copyright obtained in one State, in conformity with its laws, shall produce its effects of full right, in all the other States, without the necessity of complying with any other formality, provided always there shall appear in the work a statement that indicates the reservation of the property right.

4th. The copyright of a literary or artistic work, includes for its author or assigns the exclusive power of disposing of the same, of publishing, assigning, translating or authorizing its translation and reproducing it in any form whether wholly or in part.

5th. The author of a protected work, except in case of proof to the contrary, shall be considered the person whose name or well known nom de plume is indicated therein; consequently suit brought by such author or his representative against counterfeiters or violators, shall be admitted by the courts of the signatory States.

6th. The authors or their assigns, citizens or domiciled foreigners, shall enjoy in the signatory countries the rights that the respective laws accord, without those rights being allowed to exceed the term of protection granted in the country of origin.

For works comprising several volumes that are not published simultaneously as well as for bulletins, or parts, or periodical publications, the term of the copyright will commence to run, with respect to each volume, bulletin, part, or periodical publication, from the respective date of its publication.

7th. The country of origin of a work will be deemed that of its first publication in America, and if it shall have appeared simultaneously in several of the signatory countries, that which fixes the shortest period of protection.

8th. A work which was not originally copyrighted shall not be entitled to copyright in subsequent editions.

9th. Authorized translations shall be protected in the same manner as original works.

Translators of works concerning which no right of guaranteed property exists, or the guaranteed copyright of which may have been extinguished, may obtain for their translations the rights of property set forth in article 3rd, but they shall not prevent the publication of other translations of the same work.

10th. Addresses or discourses delivered or read before deliberative assemblies, courts of justice, or at public meeting, may be printed in the daily press without the necessity of any authorization, with due regard, however, to the provisions of the domestic legislation of each nation.

11th. Literary, scientific, or artistic writings, whatever may be their subjects, published in newspapers or magazines, in any one of the countries of the Union, shall not be reproduced in the other countries without the consent of the authors. With the exception of the works mentioned, any article in a newspaper may be reprinted by others, if it has not been expressly prohibited, but in every case the source from which it is taken must be cited.

News and miscellaneous items published merely for general information do not enjoy protection under this convention.

12th. The reproduction of extracts from literary or artistic publications for the purpose of instruction or chrestomathy does not confer any right of property, and may therefore be freely made in all the signatory countries.

13th. The indirect appropriation of unauthorized parts of a literary or artistic work, having no original character, shall be deemed an illicit reproduction, in so far as affects civil liability.

The reproduction in any form of an entire work, or of the greater part thereof, accompanied by notes or commentaries under the pretext of literary criticism or amplification, or supplement to the original work, shall also be considered illicit.

14th. Every publication infringing a copyright may be confiscated in the signatory countries in which the original work had the right to be legally protected, without prejudice to the indemnities or penalties which the counterfeiters may have incurred according to the laws of the country in which the fraud may have been committed.

15th. Each of the Governments of the signatory countries, shall retain the right to permit, inspect, or prohibit the circulation, representation, or exhibition of works or productions, concerning which the proper authority may have to exercise that right.

16th. The present convention shall become operative between the signatory States which ratify it three months after they shall have communicated their ratification to the Argentine Government, and it shall remain in force among them until a year after the date when it may be denounced. This denunciation shall be addressed to the Argentine Government and shall be without force except with respect to the country making it.

IN WITNESS WHEREOF, the plenipotentiaries have signed the present treaty and affixed thereto the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires on the eleventh day of August in the year one thousand nine hundred and ten, in Spanish, English, Portuguese, and French, and deposited in the ministry of foreign affairs of the Argentine Republic, in order that certified copies be made for transmission to each one of the signatory nations through the appropriate diplomatic channels.

For the United States of America.—Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul S. Reinsch, David Kinley.

For the Argentine Republic.—Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

For the United States of Brazil.—Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.

For the Republic of Chili.—Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

- For the Republic of Colombia.*—Roberto Ancízar.
For the Republic of Costa Rica.—Alfredo Volio.
For the Republic of Cuba.—Carlos Gracia Velez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.
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For the Republic of Uruguay.—Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.
For the United States of Venezuela.—Manuel Díaz Rodríguez, César Zumeta.

CONVENTION.

Pecuniary claims.

Their Excellencies the Presidents of the United States of America, Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference have sent thereto the following delegates, duly authorized to approve the recommendations, resolutions, conventions, and treaties which may be advantageous to the interests of America:

- United States of America:* Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul Samuel Reinsch, David Kinley.
Argentine Republic: Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Rodríguez Larreta, Carlos Salas, José A. Terry, Estanislao S. Zeballos.
United States of Brazil: Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculano de Freitas.
Republic of Chile: Miguel Cruchaga Tocornal, Emilio Bello Codecido, Anibal Cruz Díaz, Beltrán Mathieu.
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Republic of Cuba: Carlos García Vélez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.
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Republic of Honduras: Luis Lazo Arriaga.
United Mexican States: Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.
Republic of Nicaragua: Manuel Pérez Alonso.
Republic of Panama: Belisario Porras.
Republic of Paraguay: Teodosio González, José P. Montero.
Republic of Peru: Eugenio Larrabure y Unánue, Carlos Alvarez Calderón, José Antonio de Lavalle y Pardo.
Republic of Salvador: Federico Mejía, Francisco Martínez Suárez.
Republic of Uruguay: Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José de Amézaga.
United States of Venezuela: Manuel Díaz Rodríguez, César Zumeta.

Who, after having presented their credentials and the same having been found in due and proper form, have agreed upon the following convention on pecuniary claims.

1st. The high contracting parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens and which can not be amicably adjusted through diplomatic channels, when said claims are of sufficient importance to warrant the expense of arbitration.

The decision shall be rendered in accordance with the principles of international law.

2nd. The high contracting parties agree to submit to the decision of the permanent Court of Arbitration of The Hague all controversies which are the subject matter of the present treaty, unless both parties agree to constitute a special jurisdiction.

If a case is submitted to the Permanent Court of The Hague, the high contracting parties accept the provisions of the treaty relating to the organization of that arbitral tribunal, to the procedure to be followed and to the obligation to comply with the sentence.

3rd. If it shall be agreed to constitute a special jurisdiction, there shall be prescribed in the convention by which this is determined the rules according to which the tribunal shall proceed, which shall have cognizance of the questions involved in the claims referred to in article 1st of the present treaty.

4th. The present treaty shall come into force immediately after the 31st of December, 1912, when the treaty on pecuniary claims, signed at Mexico, on January 31, 1902, and extended by the treaty signed at Rio de Janeiro on August 13, 1906, expires.

It shall remain in force indefinitely, as well for the nations which shall then have ratified it as those which shall ratify it subsequently.

The ratifications shall be transmitted to the Government of the Argentine Republic, which shall communicate them to the other contracting parties.

5th. Any of the nations ratifying the present treaty may denounce it, on its own part, by giving two years notice in writing, in advance, of its intention so to do.

This notice shall be transmitted to the Government of the Argentine Republic and through its intermediation to the other contracting parties.

6th. The treaty of Mexico shall continue in force after December 31, 1912, as to any claims which may, prior to that date, have been submitted to arbitration under its provisions.

In witness whereof, the plenipotentiaries and delegates sign this convention and affix to it the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires, on the eleventh day of August in the year one thousand nine hundred and ten, in the Spanish, English, Portuguese, and French languages, and filed in the ministry of foreign affairs of the Argentine Republic, in order that certified copies may be taken to be forwarded through the appropriate diplomatic channels to each one of the signatory nations.

For the United States of America.—Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul S. Reinsch, David Kinley.

For the Argentine Republic.—Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Salas, José A. Terry, Estanislao S. Zeballos. *For the United States of Brazil.*—Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Hercúlo de Freitas.

For the Republic of Chile.—Miguel Cruchaga Tocornal, Emilio Bello Codecido, Aníbal Cruz Díaz, Beltrán Mathieu.

For the Republic of Colombia.—Roberto Ancizar.

For the Republic of Costa Rica.—Alfredo Volio.

For the Republic of Cuba.—Carlos García Vélez, Rafael Montoro y Valdés, Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M. Carbonell.

For the Dominican Republic.—Américo Lugo.

For the Republic of Ecuador.—Alejandro Cárdenas.

For the Republic of Guatemala.—Luis Toledo Herrarte, Manuel Arroyo, Mario Estrada.

For the Republic of Haiti.—Constantin Fouchard.

For the Republic of Honduras.—Luis Lazo Arriaga.

For the United Mexican States.—Victoriano Salado Alvarez, Luis Pérez Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

For the Republic of Nicaragua.—Manuel Pérez Alonso.

For the Republic of Panama.—Belisario Porras.

For the Republic of Paraguay.—Teodosio González, José P. Montero.

For the Republic of Peru.—Eugenio Larrabure y Unánue, Carlos Alvarez Calderón, José Antonio de Lavelle y Pardo.

For the Republic of Salvador.—Federico Mejía, Francisco Martínez Suárez.

For the Republic of Uruguay.—Gonzalo Ramírez, Carlos M. de Pena, Antonio M. Rodríguez, Juan José Amézaga.

For the United States of Venezuela.—Manuel Díaz Rodríguez, César Zumeta.

CABLE CONCESSIONS GRANTED BY THE ARGENTINE REPUBLIC.

File No. 19654/.

Chargé Wilson to the Secretary of State.

[Extract.]

No. 121.]

AMERICAN LEGATION,
Buenos Aires, April 20, 1909.

SIR: I have the honor to report that a Mr. John Oldham, acting as representative of the Western Telegraph Co., Ltd., the River Plate Telegraph Co., and the Pacific European Co., has made propositions, which will probably be accepted by the Argentine Government, for the laying and exploitation of a direct cable to Europe.

The cable will start from some point on the Argentine coast and land at the island of Ascension, where it connects with other lines going to Europe, Africa, and America.

No subvention is asked from the Argentine Government for the concessions which is to be granted for 25 years, and very low rates will be given for Government messages.

It is reported that the above-mentioned English agreement with the Argentine Government will be signed within a few days.

I have, etc.,

CHARLES S. WILSON.

File No. 19654/1.

Chargé Wilson to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Buenos Aires, June 18, 1909.

Referring to the legation's No. 121 of April 20, Mr. Wilson says the English cable proposition has been sent to Congress for approval, and he quotes the following clause which he says will seriously affect future development of companies already established or to be established:

If, for future necessities of the country or for other causes, the Government may decide on establishing new cables between the Argentine Republic and any other country, the companies I represent shall have preference on equal terms to establish them with a concession for a term of not less than 25 years.

File No. 19654/1.

The Acting Secretary of State to Minister Sherrill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 16, 1909.

Mr. Wilson instructs Mr. Sherrill to inform the Argentine minister for foreign affairs in writing that, when making the cable contract referred to in the legation's telegram of June 18, the Government of the United States supposes that the Argentine Government had in mind and did not intend any infringement on the provisions of article 3 of its treaty of 1853 with the United States, and that the Government of the Argentine Republic will wish to avoid infringement of American rights under that article in any arrangement to be projected in the future which would tend to exclude possible American competition.

File No. 19654/4-5.

Minister Sherrill to the Secretary of State.

[Extract.]

No. 30.]

AMERICAN LEGATION,
Buenos Aires, July 19, 1909.

SIR: I have the honor to report that on receipt of the department's cable instructions of July 16 I communicated with the minister for foreign affairs. Duplicate copies of my letter are herewith inclosed. I have since then had an interview on the subject with the under secretary at his request. I pointed out the objectionable features in articles 8, 13, and 17, and that the wording of article 13 (being aimed not only at companies to be formed in the future but also at existing companies) affected the rights of the Central and South American Co., which belongs to citizens of the United States.

Before my said interview with the under secretary I had a long conference with the manager and assistant manager of the Central and South American Telegraph Co., so as to be as fully informed as possible on the business points involved. No indication of the attitude taken by the Argentine Government in regard to my letter was given by the under secretary, nor have I yet received any from any other source.

This cable concession is very popular here because it provides the country with its first direct cable to Europe, and this very popularity will tend to make the Government very loath to change the contract, for the proposers are reported to have declined to lay the cable if the future preference set out therein be stricken out. It is therefore probable a reply will be sent me similar to that received by the German legation.

I have, etc.,

C. H. SHERRILL.

[Inclosure.]

*Minister Sherrill to the Minister for Foreign Affairs.*AMERICAN LEGATION,
Buenos Aires, July 17, 1909.

MR. MINISTER: Acting under instructions from my Government, I have the honor to say to your excellency that the United States Government supposes that the Argentine Government had in mind and did not intend any infringement on provisions of its treaty of 1853 with the United States in making a certain cable contract described as "El contrato 'ad referendum' celebrado entre el Poder Ejecutivo y don Juan Oldman, en representación de la 'Western Telegraph Company' para la construcción y explotación de un cable directo entre la República Argentina y el continente europeo," which contract was apparently signed June 3, 1909. My Government further instructs me to say that it supposes that the Argentine Government will wish to avoid any infringement of American rights under that article in the said treaty in any arrangements to be projected in the future which would tend to exclude possible American competition. In this connection may I call your excellency's especial attention to artículo 8°, artículo 13°, and artículo 17° of said contract as reported in the "Diario de Sesiones de la Cámara de Senadores," dated July 3, 1909.

I avail myself of this occasion to renew to your excellency the assurances of my most distinguished consideration.

C. H. SHERRILL.

File No. 19654/4-5.

The Acting Secretary of State to Minister Sherrill.

No. 24.]

DEPARTMENT OF STATE,
Washington, September 3, 1909.

SIR: I have to acknowledge the receipt of your No. 30, of July 19 last, transmitting a copy of your note to the foreign office regarding the contract "ad referendum" between the Argentine Executive and the Western Telegraph Co. (English) for the construction and operation of a direct cable between the Argentine Republic and Europe, which was apparently signed June 3, 1909, and reporting in regard to an interview on the subject which you have had with the under secretary for foreign affairs.

Your note to the Argentine minister for foreign affairs is approved; and if the Argentine reply be, as forecasted by you, similar in tenor to the reply made to the German protest, you will acknowledge, taking note of the Argentine view of the case and giving notice that the Government of the United States reserves its rights and all due assertion thereof should occasion arise.

I am, etc.,

ALVEY A. ADEE.

File No. 19654/9.

Minister Sherrill to the Secretary of State.

[Extract.]

No. 279.]

AMERICAN LEGATION,
Buenos Aires, March 14, 1910.

SIR: I have the honor to report that I have to-day received from the minister for foreign affairs a note dated the 28th ultimo replying to my note of July 17, 1909, sent to the minister in accordance with the Department's telegraphic instruction of July 16, 1909, and already reported in my No. 30 of July 19, 1909. In accordance with the instructions contained in the department's No. 24 of September 30, 1909, I have to-day sent a note to the minister for foreign affairs notifying him that the Government of the United States reserves its rights in the premises and all due assertion thereof should occasion arise.

I have, etc.,

C. H. SHERRILL.

[Inclosure.—Translation.]

*The Minister for Foreign Affairs to Minister Sherrill.*FOREIGN OFFICE,
Buenos Aires, February 28, 1910.

MR. MINISTER: The contract entered into between the National Executive and Mr. John Oldman having been approved by Congress, to which matter your excellency's note of July 17 last year refers, whose receipt I had the honor to acknowledge the 31st of the said month, this ministry did not consider a reply thereto indispensable, but the fitness of such having been intimated I am pleased to defer to that desire by means of this note.

Your excellency, in the said note of July 17, states, under instructions, that your Government supposes that that of this Republic had in mind the treaty of 1853 with the United States and it was not its intention to infringe in any way its provisions, in making a certain cable contract called the "Contrato ad referendum" entered into between Executive and Mr. John Oldman on behalf of the Western Telegraph Co., for the construction and development of a direct cable between the Argentine Republic and the Continent of Europe. Your excellency adds that you hope the Argentine Government will wish to avoid all infraction of American rights under the treaty of 1853 and finally calls my especial attention to articles 8, 13 and 17 of that contract.

The assumption of the Government which your excellency worthily represents is very logical and just. This Government has not forgotten the provisions of the said treaty, not only because they are obligations which it is always ready to fulfill, but also because it is its greatest desire to tighten the bonds of friendship which unite it with the United States.

This Government considers that the contract with the Western Telegraph Co. by its very nature in no way affects the treaty of 1853, and that the most-favored-nation clause therein contained can not be invoked in this case.

The effect and the application of this clause is subordinate to the legal principle of *secundum subjectum materiam*—that is to say, according to the material. That clause being in a treaty of commerce, its application and the favors which it brings can not be cited, except in so far as they refer to commercial relations and especially regarding customs tariffs, free trade, or protection, without its influence comprehending contracts on ways of communication in general, whether by telegraph or railroad, these being considered as public services and consequently subject to special conventions.

The said principle that the most-favored-nation clause includes only the regulations which govern trade relations has been adopted by many countries, among them the French Republic, where the courts have, in cases submitted to their jurisdiction, expressly so decided it.

Moreover, article 3 of the Treaty of Friendship, Commerce, and Navigation of 1853 between the Republic and the United States, which doubtless served your excellency as a base for the observations which now occupy me, says "That any favor, exemption, privilege, or immunity whatever, in matters of commerce or navigation, which either of them has actually granted, or may hereafter grant, to the citizens or subjects of any other Government, Nation, or State, shall extend, in identity of cases and circumstances, to the citizens of the other contracting party, gratuitously, if the concession, etc." So that its results are confined to acts of commerce and navigation and the concession in question can not be considered as such, since, as I have shown, ways of telegraphic communications are considered as public services.

Examining this question from another point, it seems proper to add that the landing of cables on one territory to connect it with another country is a matter which is exclusively subject to the will of the sovereign of that territory, from which it follows that the concessions for its improvements are also subject to the will of that sovereign represented by the government of the nation.

This theory, which may be said to be universal, has been applied by England, France, Spain, Portugal, Brazil, Peru, Ecuador, Colombia, Mexico, Japan, etc., in granting exclusive concessions and by the United States itself, as set forth in an official report of the Attorney General regarding the landing of a cable between territory of the Union and that of the Republic of Cuba. (Official opinions of the Attorneys General of the United States, Washington, 1900, Vol. XXII, pp. 514 to 519.)

It says, among other things, this:

The intention of connecting our territory with foreign territory is a matter which is subject to the sovereign control of this Government * * * permission to land a cable can not be given nor withheld in opposition to the desire of the government which exercises sovereign power. The laying of cables especially in this last quarter of a century, was done at great cost and danger and it has been very common among nations, including the United States, to grant exclusive concessions for a term of years to companies which raised the necessary capital and were engaged in such enterprises.

I believe that the matter is sufficiently explained to demonstrate that the concession cited in no way affects the treaty of 1853, and that this Government, in according it, did not desire in any manner to infringe the condition thereof and that I might omit referring to articles 8, 13, and 17 of the contract with the Western Telegraph Co., to which my attention was kindly called.

Nevertheless, and with the desire to be deferential to your excellency and your Government, I will add in this respect, that, if indeed articles 8 and 13 of that contract constitute an obligation on the part of the Argentine Government not to accord its assistance to another company and to employ the cable of the Western for its

official dispatches, these obligations are compensated for by those which the company incurs for the benefit of the State, and thus is decided the problems of transcendental importance of direct communications with the Continent of Europe and North America, freeing them from the surcharges and high rates to which they are subject to-day.

With regard to article 17, the right which it establishes is simply a preference and does not constitute a privilege, having reference to the legitimate and reasonable purpose of assuring during a certain time the interest on capital invested, and it is only under like conditions that cables which could be constructed in virtue of conventions with foreign powers are excluded.

I renew, etc.,

V. DE LA PLAZA.

[Inclosure 2.]

Minister Sherrill to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Buenos Aires, March 14, 1910.

MR. MINISTER: I have the honor to acknowledge the receipt to-day of your excellency's note of the 28th ultimo setting out that in the opinion of your excellency's Government the contract entered into with the Western Telegraph Co. for the construction and operation of a direct cable between the Argentine Republic and Europe does not in any of its terms infringe upon the provisions of the treaty of 1853 between the United States and the Argentine Republic.

While taking due note of the Argentine Government's view of the case as set forth in your excellency's note, I am instructed to advise your excellency's Government that the Government of the United States reserves its rights in the premises and all due assertion thereof should occasion arise.

I avail myself, etc.,

C. H. SHERRILL.

File No. 19654/9.

The Acting Secretary of State to Minister Sherrill.

No. 117.]

DEPARTMENT OF STATE,
Washington, May 16, 1910.

SIR: I acknowledge the receipt of your dispatch No. 279, of March 14, 1910, transmitting correspondence with the foreign office regarding the applicability of the terms of the treaty of friendship, commerce, and navigation, of 1853, between the United States and the Argentine Republic, to the concession granted by the Argentine Government to the Western Telegraph Co., a British corporation, and to the concession previously granted by the Argentine Government to the Central and South American Telegraph Co. of New York, which company complains that its rights are endangered in consequence of governmental discrimination in favor of the British company.

Article III of the treaty of 1853 covers "any favors, exemption, privilege, or immunity whatever in matters of commerce and navigation," and therefore if the concession sought by the British corporation, the Western Telegraph Co., is an exclusive one, the representations made in the note of July 17, 1909, which you addressed to the foreign office in accordance with the department's telegraphic instructions of July 16, 1909, and those of your note of March 14, 1910, which you addressed to the foreign office in pursuance of the department's mail instruction No. 24, of September 3, 1909, were well founded, and the department commends your action in the matter.

The protection and the expedition of the needs of commerce through the medium of the quickest and cheapest means of communication, is a principle recognized as one of prime importance in modern commercial practice. Any favor or privilege limiting this principle must be held as contravening the intent of the treaty of 1853, the object of which was to promote the commerce between the United States and the Argentine Republic and to guarantee to the citizens of the United States equal privileges and facilities with those granted or to be granted by the Argentine Government to the citizens or subjects of any other Government, Nation, or State.

Supposing that the grant to the Western Telegraph Co. is to give that company the exclusive control of cable communication between the Argentine Republic and Brazil, then the right of the Central and South American Telegraph Co., an American corporation, now operating in the Argentine Republic, would be set aside, and the extension of its lines to Brazil, by cable or otherwise, for the purpose of commerce, of interest alike to citizens of the United States and of the Argentine Republic, would be made impossible.

You will continue discreetly to refer to this matter whenever, in your opinion, such a course would be advantageous to American interests.

I am, etc.,

HUNTINGTON WILSON.

AUSTRIA-HUNGARY.

EMIGRATION AND MILITARY SERVICE LAW OF HUNGARY.

File No. 19375/9.

Ambassador Kerens to the Secretary of State.

No. 5.]

AMERICAN EMBASSY,
Vienna, April 20, 1910.

SIR: Referring to the department's instructions¹ of the 1st of November, 1909, serial No. 373, I have the honor to transmit herewith a copy of a note received from the foreign office (with translation) in answer to a note addressed by this embassy to the minister for foreign affairs on the 8th of December, 1909.

I have, etc.,

R. C. KERENS.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Ambassador Kerens.

MINISTRY FOR FOREIGN AFFAIRS,
Vienna, April 8, 1910.

In answer to the esteemed note of the 8th of December, 1909, asking if a Hungarian citizen who has not reached his seventeenth year, but emigrates without the permission of the minister of the interior and of national defense (as laid down in par. 2, Point B, Art. II of the Hungarian Law of 1909), is guilty of deserting in Hungary, the undersigned has the honor, after having consulted the competent authorities, to inform the chargé d'affaires of the United States, Mr. George Barclay Rives, that a Hungarian citizen who emigrates before he reaches his seventeenth year and in disregard of paragraph 2, Point B, Article II of the Hungarian Law of 1909, that is without the permission of the Hungarian minister of the interior and of national defense, can not be regarded as a deserter in Hungary, as deserters can only be such as have already joined the army. Furthermore, in accordance with the military law of 1889 (paragraph 19, heading 1, Subdivision C) volunteers may only join the army or navy, irrespective of other legal requirements, when they have reached their seventeenth year. Such persons can not, however, be regarded as deserters, as only after they have actually enlisted can they be considered as in a position to desert.

The undersigned further has the honor to say that according to article 2 of the Hungarian emigration law of 1909, men who have not received the permission of the minister of the interior under date of the 1st of January of the year in which they reach their seventeenth year, can not emigrate during that year. Those, however, under that age are not required to procure the above permission.

The undersigned takes this occasion, etc.,
(For the minister),

ROESSLER.

File No. 19375/9.

The Secretary of State to Ambassador Kerens.

No. 13.]

DEPARTMENT OF STATE,
Washington, May 13, 1910.

SIR: The department has received the embassy's No. 5 of April 20 last, relative to the military service and emigration laws of Hungary.

It appears from this dispatch that a Hungarian subject who has emigrated to the United States before performing military service is not considered a deserter unless he had actually joined the army.

It does not appear that the department has as yet received authoritative information as to the age at which a Hungarian subject is drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army, as provided in Article II of the naturalization treaty of 1871.

The circular notice to American citizens formerly subjects of Austria or Hungary, who contemplate returning to either of those countries, issued by the department on December 9, 1909, contains the statement that all male subjects of Hungary are liable to the performance of military service between the ages of 17 and 42 years. This information was based on the statement in the embassy's No. 998 of November 14, 1909, which, however, does not seem to be entirely authoritative.

In order that the department may be in a position to inform Hungarians who have emigrated before joining the army as to their liability to punishment under the treaty upon returning to Hungary, you will endeavor to secure authentic and definite information as to the age of enrollment in Hungary.

I am, etc.,

(For Mr. Knox),
HUNTINGTON WILSON.

File No. 19375/11.

Ambassador Kerens to the Secretary of State.

AMERICAN EMBASSY,
Vienna, May 28, 1910.

SIR: I have the honor to acknowledge the receipt of Mr. Wilson's dispatch No. 13, dated May 13, 1910, instructing this embassy to obtain authentic and definite information as to the age of enrollment in Hungary.

I have to-day addressed a note to the imperial and royal minister for foreign affairs on the subject, copy of which I inclose, and upon receipt of a reply thereto I shall promptly transmit the same to the department.

I have, etc.,

R. C. KERENS.

[Inclosure.]

Ambassador Kerens to the Minister for Foreign Affairs.

No 15.]

AMERICAN EMBASSY,
Vienna, May 27, 1910.

YOUR EXCELLENCY: Acting under instructions of my Government, I have the honor to ask your excellency for an authoritative statement as to the age at which a male Hungarian citizen is subject to enrollment, by conscription, in the army, and to which reference is made in Article II of the naturalization treaty of 1871 between the United States of America and the Austro-Hungarian monarchy.

The favor of a prompt reply would be greatly appreciated.

I avail, etc.,

R. C. KERENS.

File No. 864.56/12.

*Ambassador Kerens to the Secretary of State.*AMERICAN EMBASSY,
Vienna, June 21, 1910.

SIR: Referring to the department's instructions No. 13 of the 13th of May, 1910, relative to military service and the emigration laws of Hungary, I have the honor to send you herewith a copy and a translation of note received by this embassy from the foreign office regarding the matter in question.

The Hungarian emigration law of 1909 in no way alters the military law of 1889 (Gesetz vom 11. April 1889, betreffend die Einführung eines neuen Wehrgesetzes) which was passed simultaneously by the Legislatures of Austria and of Hungary and which regulate all things effecting enlistment in the army of the Austro-Hungarian Monarchy. It regulates the enlistment both in the Austrian land-sturm and landwehr and in the Hungarian honvedseg and népkölés, as well as in the common army and navy.

According to the terms of this law a man is liable to be taken for military service after the 1st of January of the calendar year in which the man in question reaches his twenty-first year and ends with the 31st of December of that year in which the man in question ends his thirty-sixth year.

I inclose a copy of the military law of 1889, which is in all points a counterpart of the Hungarian law of 1889.

I think that it may be taken for granted that a man who emigrates in contempt of the Hungarian emigration law of 1909 will on his return to Hungary be punished according to the terms of that law, but he can not be forced to serve in the army in view of the treaty of naturalization of 1871, unless he has broken the military law of 1889 before his emigration.

I have, etc.,

R. C. KERENS.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Ambassador Kerens.

MINISTRY FOR FOREIGN AFFAIRS,
Vienna, June 11, 1910.

In answer to the much-esteemed note of the 27th of May, 1910, No. 15, the undersigned has the honor to inform his excellency, the ambassador extraordinary and plenipotentiary of the United States of America, Mr. R. C. Kerens, that paragraphs 7 and 38 of Article No. VI of the Hungarian law of the year 1889 refer to the time for presentation for military service referred to in Article II, Point I of the treaty of 1870. The time for presentation for military service of a Hungarian subject begins on the 1st of January of the year in which he will reach his twenty-first year and ends on the 31st of December of the year in which he has already reached his twenty-third year.

Should, however, the person liable to present himself for military service for some reason or other not have done so, he can subsequently be called upon to fulfill the same until the 31st of December of the year in which he has already reached his thirty-sixth year—namely, as set out in the above-referred-to paragraph 38.

The undersigned takes this occasion, etc.,

(For the minister.)
RHEMEN.

File No. 864.56/12.

The Acting Secretary of State to Ambassador Kerens.

No. 71.]

DEPARTMENT OF STATE,
Washington, November 1, 1910.

SIR: I have to acknowledge the receipt of your dispatch No. 39 of June 21, 1910, in regard to the liability of persons of Austrian and Hungarian origin to perform military service in their respective native countries.

In reply I send you herewith six copies of the department's "Notice to American Citizens Formerly Subjects of Austria or Hungary Who Contemplate Returning to Either of Those Countries," issued October 22, 1910. You will note that the statement in the first paragraph in regard to the age of liability to perform military service in Austria and Hungary has been amended in accordance with the information contained in your dispatch.

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

AUSTRIA-HUNGARY.

Notice to American citizens formerly subjects of Austria or Hungary who contemplate returning to either of those countries.

The information given below is believed to be correct, yet is not to be considered as official, so far as it relates to the laws and regulations of Austria-Hungary.

Liability to perform military service in Austria and in Hungary arises on January 1 of the calendar year in which an Austrian or Hungarian reaches his twenty-first year and ceases on the 31st of December of the year in which he ends his thirty-first year.

Under the terms of the treaty between the United States and Austria-Hungary a former subject of Austria or Hungary who has resided in this country five years and has been naturalized as a citizen of the United States is treated upon his return as a citizen of the United States. If he violated any criminal law of his original country before the date of emigration he remains liable to trial and punishment, unless the right to punish has been lost by lapse of time as provided by law. A naturalized American citizen formerly a subject of Austria or Hungary may be arrested and punished under the military laws only in the following cases: (1) If he was accepted and enrolled as a recruit in the army before the date of emigration, although he had not been put in service; (2) if he was a soldier when he emigrated, either in active service or on leave of absence; (3) if he was summoned by notice or by proclamation before his emigration to serve in the reserve or militia and failed to obey the call; (4) if he emigrated after war had broken out.

A naturalized American citizen of Austrian or Hungarian origin on arriving in his original country should at once show his passport to the American consul, or at least to the local authorities; and if, on inquiry, it is found that his name is on the military rolls he should request that it be struck off, calling attention to the naturalization treaty between this country and Austria-Hungary published in 1871.

The laws of Austria-Hungary require every stranger to produce a passport on entering. This provision is not usually enforced, but may be at any time. Travelers are usually called upon to establish their identity and are advised to provide themselves with passports. They do not ordinarily require to be viséd.

A native of Austria or Hungary will probably experience difficulty in establishing his status if he returns to his original country bearing an American naturalization certificate and passport issued in a name different from his original name. Such a person, if his name has been changed by order of a court, should take with him a properly authenticated copy of the order of the court; if the change of name was not legally made, he should obtain from the court in which he was naturalized a new certificate

of naturalization in his lawful name, and his passport application should agree therewith.

Attention is called to the following provisions of the second section of the Expatriation Act, of March 2, 1907:

That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign State in conformity with its laws, or when he has taken an oath of allegiance to any foreign State.

When any naturalized citizen shall have resided for two years in the foreign State from which he came, or for five years in any other foreign State it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however*, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe; *And provided also*, That no American citizen shall be allowed to expatriate himself when this country is at war.

American citizens in Austria-Hungary should apply for registration in the nearest American consulates.

DEPARTMENT OF STATE,
Washington, May 15, 1912.

CITIZENSHIP OF RUDOLF WARREN-LIPPIT.

File No. 21158.

The Chargé of Austria-Hungary to the Secretary of State.

[Translation.]

No. 2028.]

AUSTRO-HUNGARIAN EMBASSY,
Manchester, Mass., August 18, 1909.

YOUR EXCELLENCY: Rudolf Warren-Lippit, residing and owning property at Thurnisch, Rann Parish, Steiermark, Austria, claims to be an American citizen and is also in possession of a passport issued by the former United States Legation at Vienna, No. 104, and dated December 31, 1879.

The Austro-Hungarian ministry of foreign affairs has instructed me to ascertain whether Mr. Rudolf Warren-Lippit, as well as his son of the same name, born in 1890 at Thurnisch, Steiermark, are really American citizens.

I therefore have the honor to request your excellency to kindly have this information procured, and permit myself to await an answer in due course.

Please accept, etc.,

L. AMBRÓZY.

File No. 21158.

The Acting Secretary of State to the Chargé of Austria-Hungary.

No. 471.]

DEPARTMENT OF STATE,
Washington, September 8, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 18th ultimo, in which, under instructions from your Government, you make inquiry as to the citizenship of Mr. Rudolf Warren-Lippit, residing at Thurnisch, Rann parish, Steiermark, and his son, bearing the same name, who was born at Thurnisch in 1890.

In reply I have the honor to advise you that the matter has been brought to the attention of the American Embassy at Vienna, with

instructions to investigate and report in regard to the status of the two Lippits. Upon receipt of the embassy's report the department will have pleasure in advising you further in the matter.

Accept, etc.,

ALVEY A. ADEE.

File No. 21158.

The Acting Secretary of State to Chargé Rives.

No. 358.]

DEPARTMENT OF STATE,
Washington, September 8, 1909.

SIR: I inclose herewith a translation of a note from the Austro-Hungarian Embassy at this capital, making inquiry as to the citizenship of Rudolf Warren-Lippit, residing at Thurnisch, Rann parish, Steirmark, and of his son, bearing the same name, who was born at Thurnisch in 1890.

It appears from the department's records that a passport, No. 104, was issued to the elder Lippit by the legation at Vienna on December 31, 1879. A memorandum in regard to the issuance of this passport was received with a dispatch, No. 273, of December 31, 1879, and reads as follows:

December 31. No. 104. Rudolf G. W. Lippit, of Providence, R. I. Given upon affidavit of being a native citizen of the United States, born at Vienna, son of George. W. Lippit, who at the time of his birth was there resident as secretary of the United States Legation to Austria. Personally known.

Your attention is called to the provisions of section 1993 of the Revised Statutes, which reads as follows:

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States, but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

Under this statute if the younger Lippit is to be considered a citizen of the United States he must show that not only was his father a citizen of the United States at the time of his (the son's) birth, but that his father had resided at some time in this country.

Your attention is further called to section 6 of the act of March 2, 1907, which provides—

That all children born outside the limits of the United States who are citizens thereof in accordance with the provisions of section nineteen hundred and ninety-three of the Revised Statutes of the United States and who continue to reside outside the United States shall, in order to receive the protection of this Government, be required, upon reaching the age of eighteen years, to record at an American consulate their intention to become residents and remain citizens of the United States, and shall be further required to take the oath of allegiance to the United States upon attaining their majority.

Thus, even if the younger Lippit was born a citizen of the United States, it will be necessary for him, before he can receive the protection of this Government, to record at an American consulate his intention to become a resident and remain a citizen of the United States. It does not appear from the department's records that he has yet made this declaration, nor does it appear that a passport has ever been issued to him.

The department desires that you investigate and report in regard to the status of the two Lippits.

I am, etc.,

ALVEY A. ADEE.

File No. 21158/2.

The Chargé of Austria-Hungary to the Secretary of State.

[Translation.]

No. 536.]

AUSTRO-HUNGARIAN EMBASSY,
Washington, March 10, 1910.

YOUR EXCELLENCY: In the esteemed note of September 8, 1909, Serial No. 471, your excellency had the kindness to advise me that the American Embassy in Vienna has been directed to make inquiries in regard to the citizenship of Rudolf Warren-Lippit, sr., and his son, of the same name, and to report the results.

I should feel deeply obliged if your excellency would be so good as to communicate to me the results of the investigation made in this matter by the American Embassy at Vienna.

I avail, etc.,

L. AMBRÓZY.

File No. 21158/2.

The Secretary of State to the Chargé of Austria-Hungary.

No. 512.]

DEPARTMENT OF STATE,
Washington, March 24, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, referring to previous correspondence and making inquiry as to the status of the citizenship case of Rudolf Warren-Lippit and his son.

In reply I have the honor to inform you that the matter has again been brought to the attention of the American Embassy at Vienna, with instructions for an early report.

Assuring you that the result of the embassy's investigation will be immediately communicated to you upon its receipt,

I avail, etc.,

(For Mr. Knox),
HUNTINGTON WILSON.

File No. 21158/2.

The Secretary of State to Chargé Rives.

No. 409.]

DEPARTMENT OF STATE,
Washington, March 24, 1910.

SIR: Referring to instruction No. 358, of September 8, 1909, inclosing a translation of a note from the embassy of Austria-Hungary at this capital wherein inquiry was made as to the citizenship of Rudolf Warren-Lippit, residing at Thurnisch, Rann Parish, Steir mark, and of his son, bearing the same name, who was born at Thurnisch in 1890, you are informed that the embassy has again addressed the department, requesting to be advised of the result of the investigation of the matter.

The department would be pleased to receive your report on the subject at as early date as may be practicable.

I am, etc.,

(For Mr. Knox),
HUNTINGTON WILSON.

File No. 21153/3.

Ambassador Kerens to the Secretary of State.

No. 22.]

AMERICAN EMBASSY,
Vienna, May 10, 1910.

SIR: I have the honor to acknowledge the receipt of the department's dispatch No. 409, dated March 24, 1910, relative to the matter of the citizenship of Rudolf Warren-Lippit, residing at Thurnisch, Rann Parish, Steirmark, and of his son, bearing the same name, who was born at Thurnisch in 1890.

On April 11, 1910, this embassy addressed a letter to Mr. Warren-Lippit, in which certain questions were asked, the answers to which might have been the means of clearing up the question of his citizenship. Instead of answering the questions by letter, Mr Lippit called at this embassy this morning and was questioned in the following manner, his answers being added to each question:

Q. Where were you born?—A. In Vienna. My father was an American citizen and married an Austrian lady.

Q. Where was your son born?—A. In Thurnisch, Steirmark. But I have two sons, one about 25 years of age and the other about 18 years old. The former resides in Vienna and the latter is still attending school at Graz.

Q. When were you last in the United States?—A. About 30 years ago.

Q. Were your sons ever in the United States?—A. No.

Q. Do you intend going to the United States to reside therein?—A. No; I do not have any such intention.

Q. Do your sons intend going to the United States?—A. The one who resides in Vienna, I am sure, does not. But I can not say whether the one who is now attending school will go or not.

Q. Do you intend becoming an Austrian citizen?—A. I do not yet know. I had such intention, but have postponed it because I want to wait until my youngest son reaches his majority.

Q. As you do not intend going back to the United States, you do not care to retain your American citizenship; is that so?—A. Yes; I shall not go back, so far as I know now.

Mr. Lippit had in his possession a passport issued in the year 1879, which he would not give up, as he said he might need it. The impression gained from the whole course of Mr. Lippit's conversation was that he did not care about his American citizenship, but that he would like to use his former American citizenship for the purpose of preventing the Austrian authorities from compelling his youngest son to enter the imperial army. Awaiting further instructions,

I have, etc.,

R. C. KERENS.

File No. 21153/3.

The Secretary of State to Ambassador Kerens.

No. 19.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

SIR: Referring to previous correspondence, the department acknowledges the receipt of your No. 22 of the 10th instant, in regard to the citizenship of Rudolf Warren-Lippit, who was born in Vienna of an American father and an Austrian mother, and of his son bearing the same name, who was born at Thurnisch in 1890. It is stated in your dispatch that the elder Warren-Lippit informed you that he does not intend ever to return to this country to reside, and

it seems doubtful whether the son who is now attending school at Graz intends to come to this country. It is also stated in your dispatch that the father informed you that he was last in this country about 30 years ago. Referring to section 1993 of the Revised Statutes of the United States, quoted in the department's instruction No. 358, of September 8, 1909, to Mr. Rives, you are requested to ascertain from the elder Warren-Lippit whether he ever actually resided in this country, or whether his stay in the United States was merely in the nature of a temporary sojourn. In other words, you will endeavor to inform the department as to the duration, cause, and nature of his stay in the United States. In order to decide definitely as to the status of the two Warren-Lippits it would be well to advise them to apply to the department, through your office, for American passports or to apply to the consul general at Vienna for registration as American citizens. The consul general should be informed as to the correspondence in this case so as to preclude the registration of these men before it has been specifically authorized by the department.

I am, etc.,

P. C. KNOX.

File No. 21158/4.

Ambassador Kerens to the Secretary of State.

No. 66.]

AMERICAN EMBASSY,
Vienna, July 30, 1910.

SIR: Referring to previous correspondence in the citizenship case of Rudolf Warren-Lippit and the department's instruction No. 19, of June 1, 1910, I have the honor to report that Mr. Warren-Lippit called on me to-day at my request, when he was shown a copy of his statement of May 10, 1910. He declared that there must have been some misunderstanding on the part of the person who made the above-mentioned statement, as he never intended to convey the impression given by reading the said statement.

Mr. Warren-Lippit voluntarily made the inclosed affidavit, which answers, at least as far as he says that he is able to, the department's question as to whether he ever actually resided in this country or whether his stay in the United States was merely in the nature of a temporary sojourn.

The inclosed memorandum, signed by Secretary Rives before whom Mr. Warren-Lippit made his previous statement, is explanatory thereof.

I further inclose Mr. Rudolf Warren-Lippit's application for a passport, taken at this embassy to-day.

I have, etc.,

R. C. KERENS.

[Inclosure.]

MEMORANDUM.

AMERICAN EMBASSY,
Vienna, July 30, 1910.

Referring to the citizenship of Rudolf Warren-Lippit, who was at this embassy again to-day and made an affidavit under oath, I hereby certify that the original statement of Mr. Lippit in reply to the questions placed by the Department of State

was made in my presence on or about May 10, 1910, but as Mr. Lippit answered the questions somewhat hurriedly without placing very much importance upon his answers, and as he made no oath to his statement at that time, I am personally of the opinion that his statement made to-day under oath is the one which should govern the case.

The original dispatch of May 10 was drafted by me for the ambassador's signature.

GEORGE BARCLAY RIVES,
Secretary of Embassy.

File No. 21158/4.

Ambassador Kerens to the Secretary of State.

No. 105.]

AMERICAN EMBASSY,
Vienna, September 22, 1910.

SIR: Referring to my dispatch No. 66 of July 30, 1910, transmitting the sworn statement and passport application of Mr. Rudolf Warren-Lippit, may I inquire if the department has reached a decision in the matter, and, if so, the result of same?

I have, etc.,

R. C. KERENS.

File No. 21158/4.

The Acting Secretary of State to Ambassador Kerens.

DEPARTMENT OF STATE,
Washington, October 7, 1910.

SIR: The department acknowledges the receipt of your dispatch No. 105, of September 22, 1910, in regard to the passport application of Mr. Rudolf Warren-Lippit, received with your dispatch No. 66 of July 30 last.

In reply I have to state that, accepting as true the statements in Rudolf Warren-Lippit's memorandum and passport application, he was born in Austria of a native-born American father in 1859; he has never been in the United States excepting for a period of perhaps 10 months in 1873 and another period of 6 months in 1879; and he did not come to the United States when he arrived at majority, nor has he been in this country during the 21 years that have elapsed since. In his application he states that his permanent residence is at Thurisch, Austria. From the above facts the department is inclined to believe that the allegiance of Warren-Lippit to this country is little more than nominal and that at heart he is no longer a true American. Accordingly, it is the department's opinion that he is not entitled to claim the protection of this Government, and, therefore, it declines to issue to him a passport.

I am, etc.,

ALVEY A. ADEE.

EXTRADITION OF MORITZ ORMAI TO AUSTRIA-HUNGARY.

RECKONING OF DETENTION PERIOD.

File No. 211.63 Or5/2.

The Ambassador of Austria-Hungary to the Secretary of State.

[Translation.]

No. 2427.]

THE AUSTRO-HUNGARIAN EMBASSY,
Washington, October 11, 1910.

EXCELLENCY: With your valued note of the 8th instant, serial No. 596,¹ your excellency was so good as to send me a warrant for the surrender of Moritz Ormai.

I am informed by my Government that there are reasons to suspect that this man has, in addition to the offenses for which his extradition was requested and granted, committed other crimes that come under the provisions of the extradition treaty. The royal Hungarian ministry of justice is gathering the evidence in the case and, upon the completion of this preliminary work, a request that Ormai's extradition be made to include the said additional crimes will be presented through the embassy.

For the accomplishment of this purpose I beg your excellency most kindly to cause Ormai to be held in custody until the additional request for extradition shall have been presented and the decision of the Federal Government on the subject shall have been rendered and followed by Ormai's surrender.

Looking forward to the earliest possible obliging reply on the subject, I beg leave to add that I have explained to my Government the necessity of its making its instructions in the case known as soon as possible.

Accept, etc.,

(For the imperial and royal ambassador),

LOWENTHAL,

Imperial and Royal Counselor of Legation.

File No. 211.63 Or5/2.

The Secretary of State to the Ambassador of Austria-Hungary.

No. 602.]

DEPARTMENT OF STATE,
Washington, October 18, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of the embassy's note of October 11, which requests that Moritz Ormai, for whose extradition on the charge of forgery a warrant was issued on the 8th instant, be held in custody, for the reason that the Austro-Hungarian Government suspects that Ormai is guilty of other crimes and is gathering the necessary evidence upon which to base a request for his extradition for such further offenses.

In seeking Ormai's extradition for the further charges, the same procedure should be followed that was adopted in the original proceedings. Some one acting in behalf of the Austro-Hungarian Government should make complaint on oath before the extradition magistrate, whereupon a warrant will be issued covering the additional

¹ Not printed.

charges, and the evidence of criminality may be presented and considered.

Under our law a period of two calendar months from the date upon which the accused was committed by the magistrate for extradition is allowed to convey him out of the United States. As he was committed on September 28, this will afford ample time for the institution of further proceedings.

Accept, etc.

P. C. KNOX.

File No. 211.63Or5/3.

The Ambassador of Austria-Hungary to the Secretary of State.

[Translation.]

No. 2497.]

AUSTRO-HUNGARIAN EMBASSY,
Washington, October 21, 1910.

YOUR EXCELLENCY: Referring to the esteemed note No. 602 of the 18th instant, I have the honor to inform your excellency that my Government has given up extending the request for extradition of Moritz Ormai to other crimes and that said person was embarked yesterday.

The question of keeping him longer under arrest has therefore been solved, and I should like to take the liberty of merely referring to a statement in your excellency's note which might be of fundamental importance in future cases. As stated by your excellency in note No. 2331 of October 3 instant, the arrest of Ormai took place at (toward) the end of August (the exact date is the 22d of that month); the proceedings before the United States commissioner regarding his extradition were terminated on September 28.

In your note your excellency stated this day as "the date upon which the accused was committed," and on which the two-month period within which the party should be extradited began. I should be much obliged to your excellency for a kind statement whether this is a mistake (which would be easily explainable) or whether the two-month period just mentioned is actually to be calculated from the day on which the proceedings before the United States commissioner are terminated instead of from the day of arrest.

Please accept, etc.,

(In representation of the Austro-Hungarian Ambassador),

LÖWENTHAL,
Counsellor of Legation.

File No. 211.63Or5/3.

The Secretary of State to the Ambassador of Austria-Hungary.

No. 606.]

DEPARTMENT OF STATE,
Washington, October 26, 1910.

EXCELLENCY: Replying to the embassy's note of October 21 concerning the extradition of Moritz Ormai, and referring to the general subject of extradition, I have the honor to inform you that the statement made in the department's note of the 18th instant is correct,

the two-months' period within which the accused, in an extradition proceeding, must be conveyed out of the country, being reckoned from the day on which he is committed for extradition by the magistrate. The language of our statute (R. S., 5273) is as follows:

Whenever any person who is committed under this title or any treaty, to remain until delivered up in pursuance of a requisition, is not so delivered up and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the United States, it shall be lawful for any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, to order the person so committed to be discharged out of the custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered.

Accept, etc.,

(For Mr. Knox),
ALVEY A. ADEE.

BELGIUM.

RIGHT OF AGRICULTURAL CORPORATION TO PURCHASE AND HOLD LAND IN THE PHILIPPINE ISLANDS.

File No. 811B.5034.

The Acting Secretary of State to the Belgian Minister.

DEPARTMENT OF STATE,
Washington, May 2, 1910.

SIR: I beg to transmit herewith, for your information, a copy of an opinion rendered by the Attorney General, dated April 29, 1910, upon the question presented by Mr. Ed. C. André, through you, as to the legal right of a Belgian corporation to purchase and hold a plantation in the Philippine Islands containing an area of 1,430 hectares. As will be observed, the Attorney General holds that under the law no foreign or domestic corporation authorized to engage in agriculture may purchase or hold lands in the Philippines in excess of 1,024 hectares.

Accept, etc.,

HUNTINGTON WILSON.

[Inclosure.]

The Attorney General to the Secretary of State.

DEPARTMENT OF JUSTICE,
Washington, April 29, 1910.

SIR: I have the honor to acknowledge the receipt of your communication of April 21, instant, in which you state:

I have the honor to inclose copies of two notes addressed, respectively, to the minister of foreign affairs at Brussels by Mr. Ed. C. André, dated April 4, and to the Belgian minister at this capital by the minister of foreign affairs of his Government, dated April 17, and with them three letters from Mr. André, dated March 30 and April 4, addressed to you and handed to me by the minister of Belgium for delivery to you. These documents raise the question whether a Belgian corporation authorized to engage in agriculture may legally purchase and hold a plantation in the Philippine Islands containing an area of 1,430 hectares. The collateral inquiry is also presented whether, if the answer to the foregoing question is in the negative, an agricultural and commercial corporation created under Philippine law may take and hold the said plantation.

You request an expression of my opinion on both of these questions.

The act of Congress entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1892, is the law still in force.

By the seventy-fifth section of that act it is provided:

That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed one thousand and twenty-four hectares of land. * * *

The first clause of this section forbids the organization of corporations to conduct the business of buying and selling real estate. The next, recognizing the necessity of some corporations to hold real estate for the conduct of their business, denies the permission to hold or own any real estate except such as may be reasonably necessary to enable it to carry out the purposes for which the corporation is created. The holding of real estate, under this provision, is incidental to the main business of the corporation, such as manufacturing or trading. By no intentment can this apply to a corporation formed for the use or cultivation of land.

By the next clause of this section it is provided:

Every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed one thousand and twenty-four hectares of land.

Mr. André suggests, in one of the notes transmitted through you: "I am in doubt whether this refers to the rules and by-laws of the corporation or to the privilege granted to a company at being filed."

This provision is not directory. It affects the very being of the corporation. It is an absolute prohibition of the power to hold land in excess of 1,024 hectares. This limitation was placed on the act after much debate and deliberation in the United States Congress, and it is repeated and emphasized in all the legislation upon this subject.

These prohibitions in the organic act were embraced in the "corporation law" of the Philippine Commission, enacted by authority of the United States. By Article I, section 13, it is enacted:

Every corporation has power (par. 5) to purchase, hold, convey, sell, lease, let, mortgage, encumber, and otherwise deal with such real and personal property as the purposes for which the corporation was formed may permit and the transaction of the lawful business of the corporation may reasonably and necessarily require, unless otherwise prescribed in this act: *Provided*, That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall be restricted to the ownership and control of not to exceed one thousand and twenty-four hectares of land. * * *

Reversing the order in which the questions in your communication are presented to me, and replying to the second inquiry, I think an agricultural corporation created under Philippine law can not take and hold of the plantation described, or of any other lands, more than 1,024 hectares.

By the last paragraph of this same section 75 of the act of Congress it is provided:

Corporations not organized in the Philippine Islands, and doing business therein, shall be bound by the provisions of this section so far as they are applicable.

And by section 73 of the "corporation law" of the Philippine Commission it is enacted:

Any foreign corporation or corporation not formed, organized, or existing under the laws of the Philippine Islands and lawfully doing business in the islands shall be bound by the laws, rules, and regulations applicable to domestic corporations of the same class, save and except such only as provide for the creation, formation, organization, or dissolution of corporations or such as fix the relations, liabilities, responsibilities, or duties of members, stockholders, or officers of corporations to each other or to the corporation: *Provided, however*, That nothing in this section contained shall be construed or deemed to impair any rights that are secured or protected by the treaty of peace between the United States and Spain, signed at the city of Paris on December tenth, eighteen hundred and ninety-eight.

This act was passed under the authority delegated by the organic act. Its provisions are declaratory of the limitations of that act.

The restrictions upon the ownership and control of lands in the Philippine Islands by corporations are absolutely determined by this legislation. It is beyond the power of the executive branches of the Governments, either of the United States or the Philippine Islands, to authorize or permit corporations to own or hold lands in excess of the amount so designated.

I am therefore of opinion that neither a corporation formed in Belgium to acquire and possess lands in the Philippine Islands nor any other foreign or domestic corporation authorized to engage in agriculture may legally purchase or hold more than 1,024 hectares of land in the Philippine Islands.

I have, etc.,

GEO. W. WICKERSHAM.

TRANSIT OF FUGITIVE FROM JUSTICE IN COURSE OF EXTRADITION PROCEEDINGS BETWEEN LUXEMBURG AND THE UNITED STATES.

File No. 23700/7.

Minister Beaupré to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
The Hague, March 31, 1910.

Mr. Beaupré says he is notified by the Luxemburg Government of the arrest made in compliance with the telegraphic request of Wood, detective captain, of Chicago, at Luxemburg on March 24 of Nicholas Knepper on charge of larceny. Asks if extradition papers are being sent to the legation.

File No. 23700/7.

The Acting Secretary of State to Minister Beaupré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 31, 1910.

Mr. Wilson informs Minister Beaupré that the extradition papers for Knepper, referred to in legation's telegram of March 31, will be sent on Saturday.

File No. 23700/14.

Minister Beaupré to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
The Hague, April 11, 1910.

Mr. Beaupré asks if permission has been obtained from Belgium for the transit of Nicholas Knepper in accordance with article 4 of the Belgian law of 1874.

File No. 23700/14.

The Acting Secretary of State to Minister Bryan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 12, 1910.

Mr. Hale instructs Minister Bryan to cooperate with Minister Beaupré at The Hague, from whom he may obtain particulars, to secure permission from Government of Belgium for transit of agent and extradited criminal.

File No. 23700/14.

The Acting Secretary of State to Minister Beaupré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 12, 1910.

Referring to legation's, April 11, relative to extradition of Knepper, Mr. Hale says permission for transit has not been obtained and instructs Mr. Beaupré to cooperate with the legation at Brussels to secure same, as agent is sailing on this date.

File No. 23700/16.

Minister Beaupré to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
The Hague, April 16, 1910.

Referring to instructions of April 12, Mr. Beaupré says he has received a telegram from the legation at Belgium stating that on account of the lack of treaty provisions the authorities of Belgium

require full extradition formalities and certified documents for a prisoner in transit, and that they suggest return of prisoner through German territory. Mr. Beaupré asks if department will obtain authorization for transit through embassy at Berlin.

File No. 23700/16.

The Acting Secretary of State to Ambassador Hill.

[Telegram paraphrase.]

DEPARTMENT OF STATE,
Washington, April 16, 1910.

Mr. Adeë informs Ambassador Hill that extradition of one Nicholas Knepper will soon be granted by Luxemburg, and, as Belgian Government refuses transit of prisoner except on full extradition formalities, he instructs him to ascertain if the German Government will allow transit for agent and fugitive, and upon what formalities. Says particulars relative to Knepper case may be obtained from the legation at The Hague.

File No. 23700/16.

The Acting Secretary of State to Minister Beaupré.

[Telegram paraphrase.]

DEPARTMENT OF STATE,
Washington, April 16, 1910.

Mr. Adeë acknowledges legation's April 16, and says embassy at Berlin has been instructed to request authority for transit of Nicholas Knepper.

Minister Beaupré to the Secretary of State.

No. 19, Luxemburg series.]

AMERICAN LEGATION,
The Hague, April 16, 1910.

SIR: I have the honor to acknowledge the receipt of the department's unnumbered instruction¹ of the 31st ultimo, transmitting, to be certified and forwarded to the minister for foreign affairs of Luxemburg, the documents to be used upon the application for the extradition from the Grand Duchy of Nicholas Knepper, or Knuepper, charged with the crime of burglary in the State of Illinois and a fugitive from the justice thereof.

Immediately upon the receipt of this dispatch and its inclosures on the 11th instant I made formal application for the extradition of the fugitive in question in the note of which I inclose copy, certifying the documents, to be used upon this application, in the form of which a copy is likewise inclosed. At the same time I cabled you asking whether permission had been obtained for the transit of Belgium by the agent commissioned to receive the fugitive and his prisoner, in accordance with Article IV of the Belgian law of 1874, reported to

¹ Not printed.

the department in Mr. Jones's No. 229, of March 15, 1874. This article provides that—

extradition by way of transit across Belgian territory may, nevertheless, be granted * * * on the simple production of the original or of an authenticated copy of one of the instruments of procedure mentioned in the foregoing article, when it shall have been requested for a State with which Belgium has a treaty comprising the offense which gives rise to the demand for extradition, etc.

These instruments of procedure are enumerated in Article III of the same law as—

the sentence or writ of condemnation, or the order of the council chamber, or the order of the chamber of indictments, or of the order of criminal procedure issued by a competent judge, formally decreeing the transfer of the accused to repressive jurisdiction. It is not clear to me what may be the meaning of the phrase "formally decreeing the transfer of the accused to repressive jurisdiction." In Moore on extradition, however, it is stated (No. 460) that "transit across Belgian territory is conceded under the following conditions: (1) That the person is not a Belgian; (2) that prescription has not run; (3) that the offense is not of a political character; (4) that the Government requesting the transit shall produce a document which would afford a basis for an ordinary extradition."

On the receipt of the department's reply to my cable, and in compliance with the department's instruction, I addressed our legation at Brussels in the note of which I inclose a copy, quoting a paraphrase of my cable to the department of the 11th instant and of the department's reply of the following date, and requesting to be informed what may actually be necessary to secure permission for the transit of Belgium by Richard Barry and his prisoner. Mr. Bryan has replied in two letters, of which I send copies, and a telegram, which I quoted in my cable of this noon to the department. From these it appears that the requirements for securing permission to transport the expedited fugitive across Belgian territory are the production of such documents as would be necessary to secure the extradition from Belgium of the fugitive, authenticated in the same way as for use upon application for extradition from that country, and, further, that the fugitive could not be conducted through Belgian territory by a foreign custodian. Mr. Bryan adds that a friendly suggestion was made that in view of treaty arrangements with Germany it might facilitate the matter to have the prisoner transported to a port of that Empire instead of crossing Belgian territory. I am unaware to what treaty arrangements this refers. In the memorandum of June, 1889, No. 9, it is said that—

the transit of a criminal surrendered by a third State is granted by the Government of His Majesty the Emperor or by that of another State of the Union under the same conditions as extradition. What the German attitude with respect to England and the United States of America would be in such cases, and whether, in particular, proofs of the guilt of the fugitive would be necessary, has not yet been considered. Germany would, it is presumed, upon an assurance from England or America that, a case occurring, transit would not be made dependent upon the submission of such proofs, have no objection to permit the transit of a criminal to England or the United States in the same manner, without submission of proofs of guilt, upon the production only of a warrant issued by the English or American judge. Transit through German territory takes place regularly with the accompaniment of a German officer.

In view of this expression of the attitude of the Imperial Government toward the transit of fugitives through German territory, which is the sole finding in the matter of which the legation is aware, I have this day cabled the department, quoting Mr. Bryan's telegram in

which the suggestion is made that the fugitive Knepper be transferred through Germany, and requesting that the department obtain, through our embassy at Berlin, the necessary authorization for the transit.

It is evident that it will not be possible to secure the return of the fugitive from Luxemburg without the transit of one of the three countries which border upon the Grand Duchy. I have not, however, considered the possibility of transportation through France, since it is impracticable to enter France from the city of Luxemburg by rail without crossing either Belgian or German territory.

In this connection also I have to acknowledge the receipt of the warrant of the President, issued to Richard Barry, empowering him to take the fugitive Knepper into his custody and to return him to the United States for trial. The warrant will be delivered to Mr. Barry on his arrival.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.]

Minister Beaupré to Minister Bryan.

AMERICAN LEGATION,
The Hague, April 13, 1910.

MY DEAR COLLEAGUE: On March 24, at the request of the police authorities of Chicago, one Nicholas Knepper, otherwise known as Knuepper, was arrested and provisionally detained, pending the arrival of the papers for his extradition, by the authorities of the Grand Duchy of Luxemburg. Under date of the 31st ultimo the Department of State forwarded to this legation duly certified copies of the papers containing the evidence in the case, which were, on the 11th instant, transmitted to the minister for foreign affairs of Luxemburg with a formal request for the extradition of Nicholas Knepper, or Knuepper, charged with the crime of burglary, alleged to have been committed in the State of Illinois. At the same time Mr. Ryschen was informed, as the legation itself had been advised, that to one Richard Barry the President of the United States had issued his warrant, authorizing said Richard Barry to receive the fugitive from the custody of the authorities of the Grand Duchy of Luxemburg and bring him back to the United States for trial in the State of Illinois.

It is, however, evident that, in returning to the United States with his prisoner Mr. Barry will be compelled to pass through Belgian territory. I therefore, on the 11th instant, cabled to the Department of State in substance as follows: Supra. (Apr. 11.)

To this inquiry I have just received a cable, which is in substance as follows: Supra. (Apr. 12.)

I have therefore to request you to ascertain what may actually be necessary to secure permission for the transit of Belgium by Mr. Barry and his prisoner. Should it appear that certified copies of all or any of the documents used upon the application for his extradition from the Grand Duchy must be presented to the authorities of Belgium, it would appear expedient that you cable this information to the department. If, however, it be necessary only that a certified copy of the judgment of the Luxemburg court granting the extradition be presented to the authorities of Belgium, I should be glad to be so informed, that I may secure a document of this character from the authorities of the Grand Duchy.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 2.]

*Minister Bryan to Minister Beaupré.*AMERICAN LEGATION,
Brussels, April 14, 1910.

MY DEAR COLLEAGUE: As soon as I received your favor of yesterday this morning I examined our extradition treaty with Belgium and could find no provisions for cases of extradited persons in transit. At the foreign office they said that at least a copy of the warrant of arrest would be required. They promised to send at once to the minister of justice to ascertain exactly what documents, if any, be needed. Hence I hope to be able to give you more definite information to-morrow.

I remain, etc.,

CHARLES PAGE BRYAN.

[Inclosure 3.]

*Minister Bryan to Minister Beaupré.*AMERICAN LEGATION,
Brussels, April 15, 1910.

MY DEAR COLLEAGUE: Inclosed I send you the reply of the foreign office to my verbal inquiry of yesterday as to the requirements of the Belgian authorities with regard to a prisoner in transit.

After receiving the accompanying note I requested Mr. Grant Smith to obtain as definite information as possible from the bureau chief of the foreign office who is specially charged with questions of extradition. The latter stated that the ministry of justice on further consideration declared that a prisoner extradited in another country could not be conducted through Belgian territory by a foreign custodian, and in any event that the same formalities would have to be observed with certified documents required as in the case of a person extradited within the kingdom. I have just telegraphed you the substance of the foregoing, copy of which I inclose herewith.

A friendly suggestion was made at the foreign office that in view of treaty arrangements with Germany it might facilitate matters to have the prisoner shipped from a port of the Empire, such as Hamburg or Bremen.

Telegraph me if you think we had better cable this information to the department.

I remain, etc.,

CHARLES PAGE BRYAN.

[Inclosure 4.]

*The Belgian Minister for Foreign Affairs to Minister Bryan.*MINISTRY OF FOREIGN AFFAIRS,
Brussels, April 14, 1910.

MR. MINISTER: Replying to your note verbal, I have the honor to inform your excellency that, in order to decide in regard to a request for transit, the Royal Government should be placed in possession of the same documents which, according to article 7 of the extradition treaty of October 26, 1901, should be produced in support of a request for extradition in proper form.

In the case in question the extradited person would have to be accompanied through Belgian territory, not by a foreign agent, but by the agents of the Belgian police.

Accept, etc.,

For the Minister:
The GENERAL SECRETARY.

File No. 23700/17.

Ambassador Hill to the Secretary of State.

[Telegram.—Extract.—Paraphrase.]

AMERICAN EMBASSY,
Berlin, April 22, 1910.

Referring to department's April 16, Ambassador Hill says formalities for transit from Germany are the same as extradition from that country, and that an agent can not accompany fugitive on board German vessel or through Germany.

File No. 23700/17.

The Acting Secretary of State to Ambassador Bacon.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 22, 1910.

Mr. Wilson says department expects extradition of fugitive will be granted by Luxemburg, and says as the Governments of Germany and Belgium seem to require the same formalities for transit as for extradition, instructs Mr. Bacon to ascertain from foreign office if agent and fugitive will be allowed transit through France and upon what formalities. Says particulars in the case can be ascertained from legation at The Hague.

File No. 23700/17.

The Acting Secretary of State to Minister Beaupré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 22, 1910.

Mr. Wilson informs Minister Beaupré that department has been advised by Ambassador Hill that the Germany Government requires the same formalities for transit as for extradition. Embassy at Paris has been instructed to ascertain if Knepper and agent will be permitted transit through France.

File No. 23700/20.

Minister Beaupré to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
The Hague, May 7, 1910.

Acknowledges No. 129¹ and says court of arraignment of Luxemburg is of opinion that Nicholas Knepper's extradition must be refused on the ground that he is charged with burglary committed by the use of false keys, which does not conform to the provisions of article 2 of the treaty of extradition, and that the minister for foreign affairs of Luxemburg desires to know whether, under the circumstances, the Government of the United States will persist in its request for his extradition or whether request will be withdrawn. The minister for foreign affairs says if it is the intention of the plaintiff authorities to persist in their request that probably the court of arraignment might be inclined to make a favorable decision if the Government of the United States will, by simple declaration, guarantee to the Government of the Grand Duchy to grant in such case requests for extradition which may emanate from the Government of the Grand Duchy for analogous offenses.

Mr. Beaupré adds that Knepper will be held under arrest if the authorities of Luxemburg are enabled to continue the case before the 17th instant.

¹ Informs of departure of agent. Not printed.

File No. 23700/20.

The Acting Secretary of State to Minister Beaupré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 9, 1910.

Mr. Wilson acknowledges legation's May 7, and says that under the laws of the United States Knepper's crime constitutes burglary as defined by the treaty, and that the law of America defines breaking and entering as including opening of window or door even if the window or door is not latched or locked, and that crime of Knepper is clearly within this definition. Mr. Wilson states that, as the initial commitment upon which the department finally acts is made or refused by judicial authorities over whom the department exercises no control, it can not guarantee the surrender of fugitives, but, in view of the fact that to refuse to regard as burglary an offense of the character committed by Knepper would require the overturning of unquestioned and well-established legal principles, the department feels certain that the Government of the United States would be able to surrender to the Luxemburg Government a fugitive from that country similarly charged, and trusts that the authorities of Luxemburg will find it possible to surrender Knepper.

File No. 23700/29.

Minister Beaupré to the Secretary of State.

No. 21, Luxemburg series.]

AMERICAN LEGATION,
The Hague, May 12, 1910.

SIR: In regard to the matter of the extradition itself, and my telegram of the 7th instant and the department's reply of the 9th instant, I have the honor to inclose herewith copy and translation of the note from the ministry for foreign affairs of Luxemburg advising me that, in the opinion of the chamber of arraignment of the superior court of Grand Duchy, the extradition of Nicholas Knepper should be refused on the ground that the offense—*vol à l'aide de fausses clefs*—is not included in the treaty of extradition, and that, from the papers which accompany the request, it is this crime with which the fugitive is charged. At the same time the minister for foreign affairs most courteously acquainted the legation with his opinion before, himself, as is his duty, passing finally upon the question of the extradition, and asked whether our Government would not rather prefer to withdraw the request to having it refused on this ground. He further suggests that the chamber of arraignment of the superior court of the Grand Duchy might perhaps be inclined to make favorable decision if, by simple declaration, the United States would guarantee to grant, in such cases, requests for extradition emanating from the Grand Duchy for analogous offenses.

Immediately upon receipt of this generous note I telegraphed my thanks and at once advised the department by cable. At the same time I wrote acknowledging the note in one, of which I inclose a copy, and advised the minister that I had referred the matter to my Government. On the receipt of the department's telegraphic instruc-

tion I prepared and sent a note, of which I inclose copy, embodying the points contained in the department's cable and discussing the entire matter of the meaning of Article II, section 6, of the treaty of extradition, as it applies to the crime of burglary. At the same time I have directed the secretary of the legation to submit to me, for transmission to the department, a précis of the law and procedure of the Grand Duchy in matters of extradition. This will be forwarded to the department for its information at an early date.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

Baron Frauenberg to Minister Beaupré.

No. 21.]

FOREIGN OFFICE,
The Hague, May 6, 1910.

MR. MINISTER: According to the existing laws of the Grand Duchy of Luxemburg the Government can grant the extradition of a fugitive sought by a foreign country only in the case where an international treaty guarantees reciprocity for the particular crime which has given rise to the request for extradition. Nicholas Knepper, whose delivery the judicial authorities of Chicago request, according to your excellency's honored note of April, 1910, is accused chiefly of an offense (burglary) committed by means of false keys—an offense which is not foreseen by the treaty of extradition between the Grand Duchy of Luxemburg and the United States of October 29, 1883 (Art. II). Basing its decision on this circumstance the court of arraignment has delivered the opinion that the extradition of Knepper can not be granted. Therefore, according to Article II, section 5 of the law of March 13, 1870, on extradition, the Government is bound by the decision of the court of arraignment in such a way that, in the case in question, it can not grant the request of the legation.

Before deciding finally, however, I have the honor to beg your excellency to be good enough to let me know if, under the circumstances, the legation wish to persist in its request or would not rather prefer to withdraw it.

If the plaintiff authorities intend to persist in their request the court of arraignment might perhaps be inclined to make a favorable decision if, by simple declaration, the Government of the United States will guarantee to the Government of the Grand Duchy that it will grant, in such cases, requests for extradition which may emanate from the latter for analogous offenses.

While awaiting the reply of your excellency, Nicholas Knepper will be held under arrest, if the Luxemburg authorities be enabled to continue the case before the 17th instant.

Accept, etc.,

FRAUENBERG.

[Inclosure 2.]

Minister Beaupré to the Minister of State.

No. 61.]

AMERICAN LEGATION,
The Hague, May 10, 1910.

SIR: I have the honor to refer to your excellency's courteous note of the 6th instant in regard to the opinion of the chamber of arraignment of the superior court of the Grand Duchy, that the extradition of Nicholas Knepper must be refused, on the ground that the offense with which he is charged, in the State of Illinois, United States of America, does not fall within the treaty definition of the crime of burglary, and to my reply of the following day advising your excellency that I had communicated your excellency's suggestions in the promises to my Government, and now to inform your excellency that I am in receipt of telegraphic instructions from my Government setting forth the position of the United States of America in the question raised by the opinion of the chamber of arraignment of the superior court of the Grand Duchy which, in accordance with Article II of the law of 1870, had been called upon to give its opinion (avis).

I beg your excellency to understand that it is not my intention, as it is not my province, to enter upon a discussion of the findings of the chamber of arraignment of the

superior court of the Grand Duchy; yet, in order to make clear the position of my Government, I venture to direct your excellency's attention to Article II, section 6 of the treaty of extradition, of October 29, 1883, between the United States of America and the Grand Duchy of Luxemburg, which provides for the extradition of persons who have been duly charged with the "crime de 'burglary' consistant dans l'action de s'introduire nuitamment et avec effraction ou escalade dans l'habitation d'autrui avec intention criminelle," etc. It has doubtless been observed by your excellency that in the French text of the treaty, quoted above, the term "burglary" is employed in English, it being manifestly the intention of the treaty, by its employment of that word, in both texts, to define, in what follows in each text, an offense which shall be considered one and the same. Now in the English text the term "burglary" is qualified as "the act of breaking and entering," etc., the words "breaking and entering," usually employed, in the courts of the United States, in association with the term "burglary," being accepted generally in American law to include the opening of a door or a window, even though the door or window be not locked or latched (*ferme au loquet*). Under this the accepted interpretation of the term "burglary," the crime with which the fugitive Knepper is charged, clearly falls within the definition. Moreover, this crime, known in the United States as "burglary," is indubitably the same, and, I take it, it is the patent intention of the treaty that it should be the same, as that which is defined in the first chapter of Book IX of the Penal Code of the Grand Duchy, section 467 of which reads:

"Le vol sera puni de reclusion:

"S'il a été commis à l'aide d'effraction, d'escalade ou de fausses clefs," etc., when such theft shall have taken place at night, as expressly provided in the treaty.

It appears, then, that the crime known in American law as "burglary," and so entitled in both texts of the treaty so as to avoid doubt as to what is intended, is, in the law of the Grand Duchy, divided into three aspects—l'effraction, l'escalade, and l'empevi de fausses clefs—which three aspects are in American law covered, and fully covered, by the words "breaking and entering." It appears to me, and I submit it to the judgment of your excellency, that the use of the term "burglary" in both texts of the treaty is an indication of the intention of your excellency, at the time of signing that instrument, to cover a crime known in American law as "burglary," and that the words which follow are to be regarded rather as illuminating than as qualifying the term "burglary," which specifies the crime for which extradition is to be granted.

In regard to the courteous suggestions made by your excellency in the second paragraph to which I have referred, that if by simple declaration the Government of the United States will guarantee to the Government of the Grand Duchy that it will grant in such case requests for extradition emanating from the latter Government for analogous offenses, the chamber of arraignment of the superior court of the Grand Duchy might be inclined to make favorable decision, I must inform your excellency that in my country the procedure differs from that in the Grand Duchy in that, while in your excellency's country, as is pointed out by Dr. Ulveling, "le purvoir judiciaire * * * n'a qu'un rôle purement consultif," in the United States it is the judicial authorities who have the final decision in matters of extradition, the Department of State acting only after that decision has been pronounced. Inasmuch, therefore, as the initial commitment, in cases of extradition from the United States, upon which the Department of State of my Government finally acts, is made or refused by judicial authorities, over whom the Department of State of my Government can exercise no control, the Department of State can not guarantee the surrender of a fugitive charged with a crime similar to that with which the fugitive Knepper was accused.

I have, however, endeavored to make clear to your excellency, I fear at some length, the attitude of American law toward the crime with which the fugitive Knepper is charged. In view, therefore, of the fact that to refuse to regard as burglary, and therefore extraditable under the treaty, an offense such as that with which the fugitive Knepper is charged, would require the overturning of legal principles, well established and unquestioned in the United States, I am directed by my Government to say that it feels certain that it would be able to surrender the fugitive whose extradition I have had the honor to request.

I have, then, the honor to beg your excellency to be good enough to bring these matters to the attention of the chamber of arraignment of the superior court of the Grand Duchy, in the hope that, when they have been considered, a more favorable conclusion may be reached, and that, as my Government trusts, your excellency's Government will find it possible to surrender the fugitive whose extradition I have had the honor to request.

I avail, etc.,

A. M. BEAUPRÉ.

File No. 23700/24.

Ambassador Bacon to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, May 17, 1910.

Acknowledges department's April 22 and says that in the absence of convention the Government of France requires same formalities for transit as it does for extradition proper, and that transit application should be made through embassy and be supported by copy of judgment of condemnation when granted; the fugitive to be turned over by the authorities of Luxemburg to French agents at French frontier to be delivered to agents of the United States at the port agreed upon.

File No. 23700/36.

The Acting Secretary of State to Minister Beaupré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 13, 1910.

Department instructs Mr. Beaupré to withdraw application for extradition of Knepper, as department is informed by the governor of Illinois that no further steps will be taken to secure fugitive's extradition.

File No. 23700/38.

Minister Beaupré to the Secretary of State.

No. 28, Luxemburg series.]

AMERICAN LEGATION,
The Hague, June 20, 1910.

SIR: With reference to previous correspondence on the subject and with particular reference to the department's telegram of the 13th instant, directing me to withdraw this legation's application for the extradition of one Nicholas Knepper, a fugitive from the justice of the State of Illinois, I have the honor to transmit herewith copy of my letter to the minister of state, President of the Government of the Grand Duchy, written in pursuance of the department's telegraphic instruction, and copy and translation of his reply, this day received, of which also I inclose copy of my acknowledgment. I consider the matter, so far as regards this particular extradition, as now closed.

Referring to my No. 21, of the 12th instant, I have the honor to inclose herewith the précis of the law and procedure of the Grand Duchy in matters of extradition which I requested the secretary of the legation to make. This report, being more detailed than that section of Moore on Extradition which deals with extradition from the Grand Duchy, will enable the department in future cases to give such definite information to State or local authorities as will avoid the confusion and the needless expenditure of money arising in connection with the present case.

I have to refer particularly to that portion of Mr. Hibben's report which deals with the transit of fugitives whose extradition has been granted by the Grand Duchy. Up to the present time this legation

is still unaware of what steps, if any, should be taken by it to enable an agent of the United States, commissioned by the President of the United States to receive a fugitive, to leave the Grand Duchy. On receipt of the department's cable of the 18th ultimo, stating that our embassy at Paris had advised the department that the French Government requires that all applications for the transit of a fugitive from justice be made through that embassy and supported by a copy of the judgment of condemnation, I wrote to our embassy in Paris requesting more particular information since, in the case under consideration, there could be no question of a "judgment of condemnation" of a person whose extradition was being sought that he might be arraigned for trial, and who had never been condemned. To this letter, of which I inclose copy, I have received no reply. Nevertheless I feel that this legation should be fully informed, for its future guidance, in regard to the requirements for the transit of fugitives of justice where extradition has been granted, not only across the territory of France, but across that of Belgium and Germany as well. I have, therefore, to request the department to obtain detailed information in this respect and to forward it to this legation for its files.

At the same time I have to refer to my Nos. 21 and 22,¹ of the 12th and 17th ultimo, respectively, and to Mr. Hibben's report, in regard to the interpretation put upon the term "burglary," as used in both French and English texts of the treaty of 1883, by the chamber of arraignment of the superior court of the Grand Duchy.² In view of the treaty taken by this body, and of future complications which may arise thereunder, it might be advantageous to open negotiations with the Government of the Grand Duchy for the purpose of future defining the term "burglary," as used in the treaty of extradition with that country, as including what is known in Luxemburg law as *vol á l'aide de fausses clefs*.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.]

Minister Beaupré to the Minister of State, President of the Government of the Grand Duchy of Luxemburg.

No. 70. AMERICAN LEGATION TO THE GRAND DUCHY OF LUXEMBURG,

June 14, 1910.

SIR: I have the honor to refer to my note of the 10th instant, No. 66, and to my telegram to your excellency of to-day's date in regard to the application for the extradition of one Nicholas Knepper, a fugitive from the justice of the State of Illinois, United States of America, which I had the honor of making to your excellency on April 11 last, and in confirmation of this telegram, a copy of which appears on the overleaf, to inform your excellency that I am in receipt of telegraphic instructions from my Government advising me that the governor of the State of Illinois states that no steps will be taken by the authorities of that State looking to the extradition of the fugitive Knepper and directing me to withdraw the application for his extradition, which I now formally do.

In thanking your excellency for the courteous effort to aid this legation in this complicated matter and for the consistent kindness and liberality which has characterized the attitude of the Government of the Grand Duchy throughout the negotiations,

I avail, etc.,

A. M. BEAUPRÉ.

¹ Not printed.

² Inclosure 1 in No. 21, of May 12, 1910.

[Inclosure 2.—Translation.]

*The Minister of State, President of the Government of the Grand Duchy of Luxemburg, to
Minister Beaupré.*

FOREIGN OFFICE,
Luxemburg, June 18, 1910.

MR. MINISTER: I have the honor to advise you of the receipt of the telegram and the note of the 14th of June, instant, notifying me that at the request of the governor of Illinois and in conformance with the instructions of the Government of the United States, your excellency sees fit to withdraw the application for the extradition of the said Nicholas Knepper.

I have not failed to advise the court of arraignment of this decision.

I beg you to believe, Mr. Minister, that in this matter, as ever, the Grand Ducal Government has had the most lively desire and the best intentions to be of service to the Government and the legation of the United States, and that it regrets sincerely that unforeseen circumstances and unexpected difficulties have intervened to complicate this matter.

Accept, etc.,

For the minister of state, president of the Government, the official counselor of the Government:

FRAUENBERG.

[Inclosure 3.]

*Minister Beaupré to the Minister of State, President of the Government of the Grand Duchy
of Luxemburg.*

No. 71. AMERICAN LEGATION TO THE GRAND DUCHY OF LUXEMBURG,
June 20, 1910.

SIR: I have the honor to acknowledge the receipt of your excellency's courteous note of the 18th, acknowledging the receipt of my note and my telegram of the 14th instant, formally withdrawing application made by this legation for the extradition of one Nicholas Knepper, a fugitive from the justice of the State of Illinois, United States of America.

In thanking your excellency for the courteous expressions of good will contained in the note which this acknowledges, I assure your excellency that I have not failed to forward a copy thereof to my Government.

I avail, etc.,

A. M. BEAUPRÉ.

[Inclosure 4.]

Minister Beaupré to Ambassador Bacon.

AMERICAN LEGATION,
The Hague, May 20, 1910.

MY DEAR COLLEAGUE: I am in receipt of a telegram from the Secretary of State advising me that you have reported to the Department of State that the French Government will grant permission for the transit of Nicholas Knepper, a fugitive from the justice of the State of Illinois, whose extradition has been requested of the Government of the Grand Duchy by this legation, on condition that application be made for the transit through your embassy and that the same be supported by a copy of the judgment of condemnation. I understand, further, that when the permission for transit is granted the fugitive Knepper is to be surrendered by the authorities of the Grand Duchy at the French frontier to French agents, who will deliver the fugitive to the agent of the United States at a port to be agreed upon.

Will you be kind enough to inform me whether by a judgment of condemnation is meant an authenticated copy of the decision of the Government of the Grand Duchy in the matter of extradition; or if not, just what is desired to satisfy the French Government? I should also be glad to be informed, in case a document of this nature be required by the French Government, what it would consider adequate authentication of the same.

For the documentation of the legation on this subject I should greatly appreciate an excerpt from the French law or laws upon which the Government's decision in respect of the said fugitive is based.

You will of course advise me of what you wish to be informed by the legation in regard to the date and place of the delivery of Knepper by the agents of the Grand Duchy to the French agents, should the Grand Duchy decide to grant the extradition of the fugitive.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 5.]

Mr. Hibben to Minister Beaupré.

AMERICAN LEGATION TO THE GRAND DUCHY OF LUXEMBURG,

June 18, 1910.

SIR: In response to your verbal request I am inclosing, for the use of the legation and the information of the Department of State, a more comprehensive report of the law and procedure of the Grand Duchy in matters of extradition than that contained in Moore on Extradition, with especial reference to the difficulties having arisen in the case of the extradition of Nicholas Knepper, now pending. In this matter I venture to suggest that, in view of the present attitude of the court of arraignment of the Grand Duchy toward the interpretation of the treaty of 1883 in respect of the meaning of the term "burglary," as used in both texts, a protocol further and more accurately defining the term seems advisable. In the matter of transit from the Grand Duchy I may add that if some practical understanding could be reached with one of the border States of the Grand Duchy in respect of transit it would greatly facilitate the operation of extradition from the Grand Duchy in the future. It would seem reasonable also that the legation be put in possession of the latest laws of those States in the matter of the transit of fugitives from justice whose extradition has been granted by the Grand Duchy.

I have, etc.,

PAXTON HIBBEN.

[Subinclosure.]

A report on the law and procedure of the Grand Duchy of Luxemburg in the matter of extradition.

As to who may be extradited.

By article I of the law of March 13, 1870, the Government of the Grand Duchy of Luxemburg may grant extradition in the absence of a treaty and, by analogy, accepted in principle by the Government of the Grand Duchy,¹ may grant extradition for an offense not provided for in a treaty, but this power is entirely optional with the Government of the Grand Duchy and may be exercised only upon condition of a pledge of reciprocity on the part of the country requesting extradition under either of these circumstances. Even in cases where reciprocity may be guaranteed, Article II of the same law provides that extradition may be granted only upon the production, in support of the request, of either the original or a duly certified copy of a sentence of court, an order of the council chamber, a finding of a grand jury, emanating from a court having jurisdiction, formally decreeing the condemnation, or binding over to criminal jurisdiction for trial, the person arrested or accused. It has been claimed, but without any serious adoption of the view, that the reciprocity for which provision is made in Article I of the law in question is a reciprocity to be expressed only in treaty form.

By the law of March 13, 1870, the Government of the Grand Duchy is not pledged to the extradition, on request of a foreign country, of a subject of the Grand Duke of Luxemburg. This is also especially stipulated in Article V of the treaty of extradition between the United States and the Grand Duchy of October 29, 1883. In neither the law of 1870 nor the treaty is this mandatory on the Government of the Grand Duchy; extradition of a subject of the Grand Duke may be granted if the Government of the Grand Duchy so see fit. The law of January 18, 1879, however, provides that a Luxemburg subject may be prosecuted in the Grand Duchy for offenses committed elsewhere.

If any difficulty arise over the question of the nationality of the person whose extradition is sought, the public prosecutor, following Article LXXIV of the law of February

¹ *Pasnomie luxembourgeoise*, 1877, p. 469. Minister for Foreign Affairs to Mr. Beaupré, May 6, 1910.

18, 1885, must bring an action in the civil courts, which alone are competent to decide questions of nationality.

Not only those are subjects of the Grand Duke of Luxemburg who are born of Luxemburg parents in the Grand Duchy, but their children are also considered Luxemburg subjects, though born abroad, unless within the year following their attainment to majority these children shall have changed their allegiance. By the law of February 5, 1890, this is also true of the children born of a Luxemburg woman, though she herself have lost her Luxemburg nationality by marriage or otherwise. Children of foreigners born in the Grand Duchy may become subjects of the Grand Duke if, within the year following their attainment to majority they express the desire so to become and their intention to fix their domicile in the Grand Duchy. The subject of the Grand Duke who shall have lost his nationality as a Luxembourgeois may regain it by a similar declaration. By Article X of the constitution of the Grand Duchy, October 17, 1868, the minor child of a subject of the Grand Duke may himself become a subject of the Grand Duke if, within the two years following his attainment to majority, he so declare his desire.

If, then, the person whose extradition is sought fall within any of these categories by which Luxemburg nationality is determined, the Government of the Grand Duchy is not obliged to grant his extradition. The supreme court of justice of the Grand Duchy has decided¹ that the Luxemburg Government may surrender to foreign governments only persons accused of crimes committed on the territory of the State seeking the extradition, only if the person whose extradition is sought "*n'a pas qualité de luxembourgeois*"—that is to say, is not a Luxemburg subject. This is not, however, as has been already said, in accordance with the law of March 13, 1870, upon which this decision was based.

If, on the other hand, the person whose extradition is sought has not, at the time of the commission of the crime with which he is charged, made the declarations or declaration for which provision is made in the laws above quoted governing the nationality of subjects of the Grand Duke, he may be extradited, providing the time stipulated by law during which such declarations or declaration may be made have elapsed. In case such period of time allowed him within which to make the declarations or declaration have not elapsed, though under arrest, he may even then make his declarations or declaration and, by becoming a Luxembourgeois, escape extradition. There is, naturally, considerable question on this point.² In case of conflict between the laws of the Grand Duchy and the laws of foreign countries in regard to the nationality of the person whose extradition is sought, the Luxemburg courts are bound solely by the laws of the Grand Duchy in deciding as to the nationality of the fugitive.¹

In case the person whose extradition is sought is neither a citizen of the United States nor a subject of the Grand Duke of Luxemburg, there is no provision in the Luxemburg law either for or against his extradition. In a number of the extradition treaties which the Grand Duchy has made with other countries this case is provided for.³ The last paragraph of Article III of the treaty of extradition with the United States provides that "the consent of that Government shall be required for the extradition of the accused to a third country." ("*Le consentement de ce Gouvernement sera requis pour permettre l'extradition de l'inculpé à un pays tiers.*"). From that clause, however, it does not appear that in case of a request for the extradition of a citizen or subject of a country not party to the treaty in question, this provision would be mandatory on the Grand Duchy to the extent of requiring the extradition of such a fugitive even if the consent of the third Government were given. By the wording of the treaty the action of the Government of the Grand Duchy in such case would appear to be optional with it.

If the person whose extradition is sought sign a declaration by which he expresses his willingness to be extradited without awaiting the formalities of extradition and consent, expressly and freely, to be tried and, if found guilty, punished for any crime whatever without invoking the protection of an international treaty, he may be tried for any offense whatever, even for those not covered by the extradition treaty between the Grand Duchy and the State to which he is surrendered by virtue of this declaration.⁴

¹ Cour sup. de justice, 23 janvier 1878, Pasier., I, p. 447.

² Cass. belge, 18 juillet 1854, Pasier. belge, 1854, I, p. 383. Cass. belge, 23 octobre 1854, Pasier. belge, 1854, I, p. 456.

³ Belgium, Art. V; Switzerland, Art. IX; Germany, Art. III, sec. 2; Italy, Art. VI; Denmark, Art. III; Portugal, Art. IX; Sweden, Art. VIII.

⁴ Cour sup. de justice, 7 juillet 1884, Pasier. 11, p. 283.

CRIMES FOR WHICH EXTRADITION MAY BE GRANTED.

By the law of March 13, 1870, extradition may be granted only for the crimes mentioned therein. These are: Murder; poisoning; parricide; manslaughter; rape; arson; counterfeiting, or the manufacturing of public bills or bank notes; the use or circulation of counterfeited or falsified bills or bank notes; falsification of public documents, commercial or bank scrip; the employment of forged deeds; forgery of private documents; the employment of false documents; forgery of passports, waybills, and certifications; the employment of false or falsified passports, waybills, or certifications; the use of false money; perjury; theft, including the carrying off and destruction of the articles stolen; swindling; extortion; embezzlement of public funds; fraudulent bankruptcy; formation of associations for illegal ends; threats of crime against the person, punishable by death, by hard labor, or by incarceration in a penitentiary; abortion; bigamy; illegal arrest and detention of the person; kidnapping; harboring, hiding, substituting, or supplanting a child; exposure or abandonment of a child; kidnapping of a minor; crimes against decency, committed with violence; crimes against decency, without violence, with the aid of a person of a child of either sex of less than 14 years of age, or of an individual legally incapable of giving consent or incapable of resistance; crimes against morals by exciting, facilitating, or assisting, habitually, for the satisfaction of the passions of others, the debauch or the corruption of minors of either sex; battery or blows struck with premeditation or from ambush or having caused inability to perform personal work for a period of more than 20 days; battery or blows, voluntarily struck, resulting in death, without intention to cause death; train wrecking or the attempt to wreck a train; fraud; deceit; subornation or perjury; counterfeiting the seals of State; counterfeiting or falsifying stamps, dies, molds, or marks of State; the employment of counterfeit seals or of counterfeit or falsified stamps, dies, molds, or marks of State; the misappropriation of true seals, stamps, dies, molds, or marks; bribery; destruction of public works or the defacement of public monuments; destruction of registers, titles, documents, and other papers; the pillage or ravage of goods, merchandise, personal property, committed in association with others in a band, or by open force; opposition to the execution of public work; devastation of crops either growing or planted; the destruction of trees or grafts; destruction of agricultural implements; the destruction or poisoning of cattle or other animals.

A similar provision as to the offenses for the commission of which extradition may be granted is made in the treaty of extradition between the United States and the Grand Duchy of Luxemburg (Art. III).

There is no provision, however, in the law of 1870 which specifies that the crime for which extradition is granted by one country, party to a treaty, shall in any way necessarily correspond to a crime, or crimes, for which extradition may be granted by the other party to the same treaty. A provision of this sort is, nevertheless, included in Article I of the treaty with the United States. Article II, section 10, of the treaty, contains an apparently curiously unnecessary clause, providing for the extradition of any person charged with embezzlement "when the crime is subject to punishment by the laws of the place where it was committed." It is difficult to conceive how otherwise extradition could be sought.

The treaty provides that extradition may be granted for the attempt to commit any of the crimes therein enumerated when such attempt is punishable by the laws of both contracting parties. Under the penal code of the Grand Duchy, Article LI, a criminal attempt is defined as "the purpose to commit a crime or misdemeanor when the same shall have been made manifest by overt acts which constitute the beginning of the execution of the crime or misdemeanor, and which have not ceased or failed of their effect save through circumstances independent of the volition of the person intending to commit the crime." The attempt to commit a crime is punishable by the penalty immediately inferior to that provided for the commission of the crime itself, but the attempt to commit misdemeanor is punishable only in cases to be determined by a law which will fix the penalty. The law of 1870 does not specifically provide for extradition in case of attempts to commit crimes or misdemeanors, but from the article of the Penal Code quoted above, it would appear that these, being of themselves, crimes or misdemeanors, extradition with the United States will lie in cases of such attempts to commit crimes or misdemeanors as are, by the laws of the United States or the State wherein the crime or misdemeanor shall have been committed, to be considered as themselves crimes or misdemeanors.

The extradition treaty with the United States makes, in Article I, especial provision for the extradition of those condemned for or charged with complicity in the commission of the crimes enumerated therein. But the proviso of that article makes extradition depend upon the presentation of such evidence of criminality as, accord-

ing to the laws of the country where the fugitive be found, would justify his apprehension and commitment for trial had the offense been committed in the latter country. It becomes necessary, therefore, to examine the criminal law of the Grand Duchy, as applied to accomplices, to know how far complicity is a crime in the Grand Duchy.

Article LXVI of the Penal Code of Luxemburg provides that punishment, as authors of a crime or misdemeanor, shall be inflicted upon:

"1. Those who have executed the crime or cooperated in its execution.

"2. Those who, by any act whatsoever, shall have lent to the execution of a crime such aid that, without their assistance, the crime or misdemeanor could not have been committed.

"3. Those who by gifts, promises, menaces, abuse of authority or of power, guilty designs or machinations, shall directly have provoked said crime or misdemeanor.

"4. Those who, whether by speeches in meetings or public places, or by bills posted up, or by writings, whether printed or not, sold or distributed, shall directly have provoked the commission of said crime or misdemeanor."

And the three succeeding articles of the same code provide that the following shall be punished as accomplices of a crime or misdemeanor:

"ART. LXVII. Those who shall have been given instructions for committing it.

"2. Those who shall have procured arms or instruments or other means which have served in the commission of the crime or misdemeanor, knowing that they were so to serve.

"3. Those who, beside the case for which provision is made in paragraph 3 of Article LXVI, shall have knowingly aided or abetted the author or the authors of a crime or misdemeanor in the acts which the latter have prepared or facilitated, or in those which the latter have consummated.

"ART. LXVIII. Those who, knowing the criminal conduct of offenders practicing brigandage or violence against the existence of the State, the public peace, persons, or property shall habitually have furnished them lodgment, place of hiding, or of meeting.

"ART. LXIX. Accomplices of a crime are punishable by the penalty immediately inferior to that which would have been incurred had they been the authors of the crime itself.

"2. The punishment inflicted on the accomplices of a misdemeanor shall not exceed two-thirds of that which would have been inflicted had they been the authors of said misdemeanor."

Article IV of the extradition treaty with the United States makes especial provision that extradition may not lie in cases of political crimes or offenses, an attempt against the life of the head of the Government or against any member of his family, when such an attempt comprises the act either of murder or of assassination or of poisoning, not being considered a political crime or an act with such an offense. Political offenses are defined in the Penal Code of the Grand Duchy to include (1) the criminal attempt of the formation of a plot for the purpose of destroying or changing the form of government or the order of succession to the throne, or the incitement of the citizens or inhabitants to take up arms against the authority of the Grand Duchy or the chamber or deputies; (2) the bearing of arms by a Luxembourgish against the Grand Duchy; (3) entering into relations with foreign Governments or their agents with the purpose of inducing them to commit hostilities or engage in war against the Grand Duchy, or of furnishing them with the means thereto; (4) the act or plot to aid the enemy in entering the territory of Luxemburg, to deliver to him cities, places, magazines, or arsenals belonging to the State; to furnish him with soldiers, men, money, supplies, arms, or ammunition; to aid the progress of his arms upon the Grand Ducal territory or against the forces of Luxemburg, by shaking the fidelity to the State and the Grand Duke of officers, soldiers, or citizens; (5) correspondence with the subjects of an hostile power for the purpose of furnishing the enemy with information of prejudice to the military or political situation of the Grand Duchy or its allies in action against a common enemy; (6) the deliberate betrayal of a secret of State; (7) the harboring of a spy; (8) hostile acts not approved by the State, exposing the State to hostilities on the part of a foreign power; (9) the formation of armed bands to commit criminal attempts against public order; (10) the excitement or the plot to excite civil war by arming the inhabitants of the Grand Duchy against one another; (11) unauthorized levy of troops or distribution of arms or ammunition; (12) the arraignment or arrest of a deputy or of a member of the Government in defiance of the prerogatives accorded them by Articles LXVIII, LXIX, and LXVI of the constitution.¹

¹Arts. CIV to CLVIII of the Penal Code.

PROVISIONAL ARREST AND DETENTION.

There is no provision in the treaty of October 29, 1883, governing the conditions under which requests for the provisional arrest and detention of a fugitive may or should be made of the Grand Duchy. The law of March 13, 1870, however, makes the following provision for the necessary procedure:

"ART. IV. It shall be possible to cause the provisional arrest of a fugitive in the Grand Duchy for one of the acts enumerated in Article I,¹ upon the exhibition of a warrant of arrest by the competent foreign authority and made executory by the council chamber of the arrondissement of the place of residence of the fugitive or the place where he may be found, based upon official notice given the Luxemburg authorities by the authorities of the country where the crime or misdemeanor shall have been committed. In case of crime this warrant may be issued by the State's attorney. However, in this case, the person detained shall be released if, at the expiration of 15 days from his arrest, in case of a request from the government of a border State, and at the expiration of one month, in case of a distant country, he has not been advised of the issuance of a warrant of arrest by the competent foreign authority.

"ART. V. A foreigner under provisional arrest shall be set at liberty if, at the expiration of two months, he has not been notified of a sentence or order of condemnation, or of an order of the council chamber, or of a finding of a grand jury, or of a record of criminal procedure, emanating from competent authority, and formally decreeing the appearance, or of itself serving legally to require the appearance of the accused before a court or body having criminal jurisdiction."

It will be remarked that these provisions require the release of the prisoner in default of the production, within the time set, of one or more of the documents mentioned therein. Both Articles II of the same law and VII of the treaty of extradition make definite provision in respect of the documents the presentation of which, duly authenticated, must accompany a formal request for extradition. The "official notice given the Luxemburg authorities by the authorities of the country, where the crime or misdemeanor shall have been committed," should therefore be notice of the issue of one or more of the documents enumerated in Article VII of the treaty which are to be presented later, in duly authenticated form, to be used upon the application for the extradition of the fugitive.

There is no provision, either of the treaty or of the law of the Grand Duchy which requires that the request for the provisional arrest and detention of a fugitive from justice shall be made through a diplomatic channel. Ulveling² holds, therefore, that a distinction may be made in the execution of the request for provisional arrest and detention, by the magistrate or other authority to which the request may be addressed. In case the request come through diplomatic channel, the magistrate or other authority should execute it at once. If, however, the request emanate from another source, the magistrate or other authority receiving it is invested, by the irregularity of the procedure, with the duty of examining the request, and, in case of doubt, referring it to the Government of the Grand Duchy, which will, in turn, advise the Government of the country from which the request has arisen. In the extradition treaties between the Grand Duchy and France, Italy, and Austria this distinction has been embodied in the treaties themselves. The treaty with the United States is the sole extradition treaty with the Grand Duchy in which no provision whatever is made in regard to the manner of securing provisional arrest. In that case it would seem best that, to avoid difficulties and misunderstandings, the request for the provisional arrest and detention of a fugitive found in the Grand Duchy pass through diplomatic channel.

The method of securing provisional arrest and detention in the Grand Duchy is as follows:

If the provisional arrest has been sought on the production of a warrant of arrest issued by a foreign authority, this warrant is made executory by the council chamber of the arrondissement court of the place of residence of the fugitive or the place where he may be found, which at once becomes effective throughout the Grand Duchy. Similarly, if the provisional arrest has been sought on notice of the issue of one of the documents, the production of which is required to support a formal request for extradition, the examining magistrate of the place of residence of the fugitive or of the place where he may be found, or, in case of crime, also the State attorney, may issue the warrant of arrest which, according to Article XCVIII of the Code of Criminal Examination, likewise becomes effective throughout the Grand Duchy.

The matter of the legal duration of detention under provisional arrest is settled by Article IV of the law of March 13, 1870, in the absence of any provision in the treaty.

¹ Quoted on p. 94.

² Auguste Ulveling: *Les Etrangers dans le Luxembourg*, p. 124.

The day of arrest, however, is not to be counted as forming part of the period at the end of which the prisoner may be released.

There is nothing in the law of the Grand Duchy to permit the rearrest of a fugitive discharged from provisional arrest and detention on the production of a document which may be used upon an application for extradition.

A foreigner in the Grand Duchy, under provisional arrest, may, upon making application to the council chamber, be admitted to bail, or given provisional liberty, where a reciprocal privilege obtains in the country at the request of whose government the prisoner is held. This is the case, however, only so long as the detention is provisional; once a document to justify extradition has been presented and the prisoner notified of the presentation, release on bail is no longer possible in any case.

PROCEDURE OF EXTRADITION.

The treaty between the United States and the Grand Duchy of Luxemburg provides that "requisitions of the surrender of fugitives from justice shall always be made through a diplomatic channel." The expression "a diplomatic channel" is sufficiently broad to cover either direct correspondence between the ministry for foreign affairs of the Grand Duchy and the Department of State, or recourse to such foreign diplomatic officers as may be willing to act for that purpose. As the Grand Duchy has diplomatic officers only at Berlin and Paris, requests for extradition for the United States on the part of the Grand Ducal Government should be made in one of these two ways. It is held in the Grand Duchy that the arrangement between Luxemburg and the Netherlands of 1880, whereby the diplomatic officers of the latter Government are empowered to act in certain matters, not including affairs of a political nature, on behalf of the Grand Duchy, does not apply to requests for extradition, since these, arising as they do from the execution of treaties of extradition between one nation and another, are invested with a political character.¹

By the same article of the treaty quoted above, however, it is provided that the authentication of documents to be used upon an application for extradition shall be "by the minister or consul of the United States or by the minister or consul charged with the interests of Luxemburg, respectively," which would seem plainly to imply that not only the diplomatic but consular officer of the Netherlands, acting under the authority of the arrangement effected by an exchange of notes between Baron de Blochausen and Baron de Lynden de Sandenburg, January 6 and 7, 1880, may be assumed to have been invested, under the treaty, with the power to make requisitions for extraditions from the United States on behalf of the Grand Duchy.

The formal request for extradition should be accompanied by the documents enumerated in Article VII of the treaty of extradition, duly authenticated, as in proper and legal form, by the diplomatic officer accredited to the Government of the Grand Duchy, or, in the absence of such diplomatic officer, by the consul of the United States holding an exequatur from the Government of the Grand Duchy. The following form of authentication has been found acceptable to the Government of the Grand Duchy:

American Legation to the Grand Duchy of Luxemburg, April 11, 1910.

I, Arthur M. Beaupré, envoy extraordinary and minister plenipotentiary of the United States of America to the Grand Duchy of Luxemburg, hereby certify that the annexed papers, being certified copies of the warrant of arrest and the formation and depositions upon which the warrant was issued, together with a transcript of certain proceedings in the superior court of Cook County, of the State of Illinois, by which one Nicholas Knepper was naturalized a citizen of the United States of America on the 29th day of June, 1906, proposed to be used upon an application for the extradition of one Nicholas Knepper, otherwise known as Nicholas Knuepper, charged with the crime of burglary, alleged to have been committed in the State of Illinois, United States of America, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of said State and of the United States of America, as required by the act of Congress of August 3, 1882.

In witness whereof I have hereunto set my hand and caused to be affixed the seal of this legation, this 11th day of April, A. D. 1910.

[SEAL.]

(Signed)

A. M. BEAUPRÉ,
Envoy Extraordinary and Minister Plenipotentiary
of the United States of America to the Grand Duchy of Luxemburg.

¹Auguste Ulveling: *Les Etrangers dans le Luxembourg*, pp. 109-110.

Under the treaty these documents should consist, in case of the person whose extradition is sought and who has "been convicted of a crime or offense, of a copy of the sentence of the court in which he may have been convicted, authenticated under its seal and attestation of the official character of the judge by proper executive authority," and in case the fugitive be merely charged with the commission of a crime or misdemeanor, of "a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, and of the depositions upon which such warrant may have been issued."

Besides these, however, in order to fulfill completely the stipulations of the treaty, the documents in question must show, in case of necessity, (1) that the fugitive is not a subject of the Grand Duke of Luxemburg; (2) the identity of the person under arrest with the person charged with the commission of the crime; (3) that the prosecution of the fugitive is based upon such evidence of criminality as, according to the laws of the Grand Duchy, would justify his apprehension and commitment for trial if the crime were committed in the Grand Duchy; (4) that the crime with which the fugitive is charged is a crime falling under those enumerated in Article II of the treaty. These may be considered separately.

As Article V of the treaty of extradition provides that neither of the contracting parties shall be bound to deliver up its own citizens or subjects, in case of doubt the documents accompanying the request for extradition should show conclusively that the fugitive whose extradition is either a citizen of the United States or a citizen or subject of some third State. In the former case a duly certified copy of the record of naturalization of the fugitive will suffice. In the latter case, since, by the terms of the treaty, the consent of the Government of the third State of which the fugitive may be a subject or citizen is a condition precedent to the extradition, the consent of that Government, with its consequent admission that the fugitive is a subject or citizen thereof, should suffice.

In case, however, of doubt or contest by the fugitive of his extradition, on grounds that he is a subject of the Grand Duke of Luxemburg, the civil courts, as has already been stated, must decide the matter.

Such proofs of the identity of the fugitive with the person charged with the crime must be presented as shall convince the authorities of the Grand Duchy. These should properly accompany the documents to be used, for, in case of contest by the fugitive on grounds of mistaken identity, it is difficult to secure additional evidence in the time allowed by the laws of the Grand Duchy. In case of extreme doubt, it is well within the powers of the authorities of the Grand Duchy to demand that the identification of the fugitive be by witness. Naturally the examination of the fugitive by the proper judicial authority, for which provision is made in Article VII of the treaty, is intended to aid the establishment of the identity of the fugitive; but it may not accomplish this end, in which case the authorities of the Grand Duchy mentioned in what follows are the sole judges of the sufficiency of the proof of identity offered.

The evidence of criminality required for extradition is provided in Article I of the treaty to be such "as, according to the laws of the place where the fugitive or the person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed." If the fugitive have already been condemned a duly certified copy of the writ of condemnation would suffice for purposes of extradition; but if he be charged with the commission of one of the offenses enumerated in Article II of the treaty, it is plain that his extradition will be granted only upon presentation of such documents, in the nature of evidence of criminality, as will satisfy the authorities of the Grand Duchy according to the law of their country. These documents may be in the form of the depositions upon which the warrant of arrest has issued, copies of which, following Article VII of the treaty, are to be presented in support of the request for extradition. Whereas the authorities of the Grand Duchy are the sole judges of whether the documents so presented in support of the request for extradition constitute sufficient evidence of criminality according to the laws of the Grand Duchy, it may be stated, in general, that such evidence as would be sufficient to satisfy the examining magistrate or magistrates, or the grand jury charged with examining the evidence, and cause him or them to bind the accused over for trial to a court having criminal jurisdiction would be regarded as sufficient evidence of criminality in the Grand Duchy as in the United States or any one of them. Unless with the consent of the accused, however, depositions of the following persons may not be received according to the law of the Grand Duchy.¹

"SEC. 1. The father, mother, grandfather, grandmother, or any other ascendant of the accused or any one of those accused with the accused who may be present and arraigned at the same trial.

¹ Code of Criminal Instruction, Art. CCCXXII.

"Sec. 2. The son, daughter, grandson, granddaughter, or any other descendant of the same.

"Sec. 3. Brothers or sisters of the same.

"Sec. 4. Brothers-in-law or sisters-in-law of the same.

"Sec. 5. Wife or husband of the same, even though divorced.

"Sec. 6. Informers for whose information pecuniary recompense is given by the law."

It is necessary, of course, that the documents submitted in support of a request for extradition state clearly the crime with which the fugitive is charged and define the crime as one of those for which extradition is to be granted under Article II of the treaty. It is equally necessary that there be consistency between the depositions accompanying the copy of the warrant of arrest and the crime charged in said warrant; that is to say, that the depositions supporting the warrant should themselves point not only to the commission of the particular crime with which the warrant charges the fugitive, but should not point to the commission of a crime other than that with which the fugitive is charged in the warrant. The difficulties that have arisen in the sole case of extradition which has reached the stage of being considered by the judicial authorities of either country, the Knepper case, now pending, have arisen from a lack of consistency, in the eyes of the Luxemburg law, between the crime charged in the warrant and the crime to the commission of which the depositions supporting the warrant point.

Briefly, this case may be stated thus: Nicholas Knepper, formerly a subject of the Grand Duchy of Luxemburg, but naturalized a citizen of the United States, is charged with the commission of the crime of burglary in the State of Illinois. The warrant of arrest so states the crime. In the depositions supporting the warrant, however, it appears that the fugitive is charged with having entered the apartment of one Bessie Shay by means of a false key, or at least by means of a key not lawfully in his possession. Now, in Luxemburg law there is no crime corresponding exactly to burglary, hence the use of the word "burglary" in English in both texts of the treaty. But in the English text this term is further "defined to be the act of breaking and entering by night into the house of another with the intent to commit felony," and in the French text as *consistant dans l'action de s'introduire nuitamment et avec "effraction ou escalade dans l'habitation d'autrui avec une intention criminelle,"* which, however close a translation of the English text, leaves out of consideration the fact that, according to Luxemburg law, following which alone the sufficiency of the evidence of criminality is to be judged, that element of premeditation essential to the crime of burglary and manifested by the act of "breaking and entering by night into the house of another," is more particularly defined as including the use of false keys; and that the French text of the treaty employs, in its translation of the English text, only two of the three terms used to define a theft of this character, to wit: "*Commis à l'acte d'effraction, d'escalade ou de fausses clefs.*" It was therefore contended by the chamber of arraignment of the superior court of the Grand Duchy, not without reason, that, forced by the treaty itself to follow Luxemburg law in judging the evidence of criminality presented in the documents submitted in support of the application for extradition of the fugitive, the evidence, if tending to show criminality at all, tended to show the commission of a crime for which, according to Luxemburg law, no provision is made in the treaty. It were idle to reply that the crime of burglary in the United States includes all three of the elements of the crime of theft without violence or menaces, which is more particularly defined in section 467 of the Luxemburg Penal Code, as committed by means of breaking, climbing, or false keys, since, by Article I of the treaty, extradition may be granted only "upon such evidence of criminality as, according to the laws of the place where the fugitive or the person so charged shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed," and since, in the judgment of the court, required by law to give its opinion in the premises, a person charged upon such evidence as was submitted would undoubtedly be apprehended and committed for trial in the Grand Duchy, but would be accused of a crime which, in the judgment of that court, is not included in those for which extradition may be granted according to the treaty. Given a situation of this sort and there is but one remedy, namely, that, by a protocol between the two Governments, the crime of burglary be defined as including all the elements of that offense described in the Penal Code of the Grand Duchy as "theft without violence or menaces, committed by means of breaking, climbing, or false keys."

From this unfortunate example it becomes evident that not only the law of the United States, or of the State where the crime may have been committed must be considered in preparing the documents to be used upon application for extradition from the Grand Duchy, but also the laws of the Grand Duchy in so far as the authorities of the Grand Duchy are, by the treaty, the judges of the evidence of criminality shown by these documents.

Moreover, by Article IX of the treaty and Article VIII of the law of 1870, extradition may not be granted for an offense if prescription have run according to the laws of the country to which the requisition is addressed. It is therefore necessary that the documents submitted in support of an application for extradition show that prescription, according to the laws of the Grand Duchy, has not run. The laws of the Grand Duchy in the matter of prescription are:

"637. The criminal and the civil actions resulting from a crime incurring the penalty of death or of perpetual punishment, or from any other crime carrying a corporal or ignominious penalty, shall become prescribed after the passage of 10 years, counting from the day of the commission of the crime, if during that time no act of prosecution or of judicial inquiry have been made.

"If during that time there have been initiated acts of prosecution or judicial inquiry, upon which no judgment have been rendered, the criminal and civil actions shall not become prescribed until the passage of 10 years from the last of these acts, even for those not implicated in such acts of prosecution or judicial inquiry.

"638. In the two cases for which provision is made in the preceding article, and following the distinctions of epochs therein established, the duration of prescription shall be reduced to the passage of three years, if it be a matter of a nature to be punished correctionally."

Prescription of penalties inflicted is fixed by Article XCI of the penal code at 20 years from the date of the decree or the judgment in cases of crimes and at 5 years in cases of correctional punishments. In case of an escaped prisoner, prescription, dating from the day of his escape, will run as above, save that in cases of crime the period of 20 years shall be reduced by whatever portion of his sentence the prisoner shall have served beyond 5 years, and in case of a correctional punishment the period of 5 years shall be reduced by whatever portion of his sentence the prisoner shall have served beyond 2 years.

GRANTING OF EXTRADITION.

Article VII of the treaty of extradition provides that, the preliminary formalities having been completed, "the proper authority in Luxemburg may then issue a warrant for the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination." If it should then be decided that, according to the law and the evidence, the extradition is due pursuant to the treaty, the fugitive may be given up according to the forms presented in such cases. The formal request for extradition, coming through the proper diplomatic channel, is accompanied by documents in support thereof to which consideration has already been given in this report. These are addressed to the minister of state, President of the Government of the Grand Duchy, charged with its foreign affairs. By his office the documents are examined to ascertain whether they are in proper form, duly authenticated, emanating from proper authorities and, in general, in conformance with the provisions of the treaty. In case of doubt upon any of these points the ministry for foreign affairs of the Grand Duchy is expected to resolve them before proceeding further in the matter.

Finding the documents submitted in support of the request for extradition in good order, the minister of state, who is chief of the department of justice, transmits them to the attorney general, who is charged with examining the documents from the point of view of the law of the Grand Duchy, as well as from the point of view of their legal regularity according to the law of the United States.

If the attorney general find the documents in order, in his judgment, the accused is then interrogated and given an opportunity to evade the formalities of extradition. Should he avail himself of this opportunity, his declaration of his intention so to act is signed in duplicate by the prisoner and attested by the administrator of prisons. The extradition of the fugitive then becomes voluntary, and the fugitive is therefore delivered, with one of the duplicates of the declaration, to the agent empowered to receive him.

If, however, the fugitive desire to pass through the regular process of formal examination, the attorney general sends the request for extradition with its accompanying documents to the chamber of arraignment of the superior court of the Grand Duchy and calls upon that body to give its opinion thereon.

Article II of the law of 1870 provides that "extradition shall be granted * * * only after an opinion of the chamber of arraignment of the superior court of justice.

"The hearing shall be public, unless the fugitive demand a trial behind closed doors. The prosecuting attorney and the fugitive shall be heard. The latter may avail himself of counsel.

"Within a fortnight dating from the receipt of the documents they shall be returned, with an opinion for which the reasons are given, to the director general of justice,

who shall pronounce a decision in conformity with a deliberation taken by the Government in council.

"Extradition may not be granted save in conformity with the opinion pronounced by the chamber of arraignment.

"As for foreigners, authorized by grand ducal decree to establish in the Grand Duchy, their extradition may not be granted until 'this decree shall have been rescinded.' "

From this it will be seen that in the Grand Duchy of Luxemburg, however, essential to the granting of extradition an opinion in that sense pronounced by the chamber of arraignment of the superior court may be, it is actually the executive power which has the deciding judgment in matters of extradition, acting upon the opinion expressed by the judiciary. This judicial investigation, though it have nothing whatever to do with the guilt or innocence of the prisoner, must examine into those questions of nationality, identity, and sufficiency of the proofs of criminality which have already been discussed. In cases of doubt as to nationality, as has previously been stated, the civil courts of the Grand Duchy are alone empowered to decide the matter.

The force of the provision of the law of 1870, quoted above, which declares that extradition may not be granted save upon the advice of the chamber of arraignment, is to bind the Government, which has the deciding power, to refuse extradition should the decision of the chamber of arraignment be unfavorable, while not binding it to grant extradition should the judicial decision be favorable thereto. The reason for this peculiar provision has ceased to exist, but it remains the law of the Grand Duchy. Another practical effect, however, evolves therefrom. As the opinion of the chamber of arraignment is not a judgment of court, but an advice given for the guidance of the executive portion of the Government, it need not be made public. It may therefore be communicated to the Government, with its reasons, without being communicated to the prisoner. In this way, should it seem to the Government of the Grand Duchy that the country seeking the extradition may alter, improve, strengthen, or withdraw its application for extradition, the opinion of the chamber of arraignment of the Grand Duchy may be communicated to the diplomatic agent of the country seeking the extradition of the prisoner for appropriate action in view of this opinion.

The decision to grant extradition having been reached by the Government and pronounced by the director general of justice, extradition is decreed in the following form:

LUXEMBURG.

The Minister of State, President of the Government.

In view of the request of the ——— Government looking to obtain the extradition of one [name, surname, date and place of birth, occupation, and nationality], charged with ———;

In view of the law of March 13, 1870, on the extradition of foreign criminals, as well as law of October 29, 1883, approving the treaty of extradition between the Grand Duchy and the United States of America;

In conformity with the opinion of the chamber of arraignment of the superior court of justice;

The attorney general having been heard;

After due deliberation of the Government in council—

Decrees:

ART. I. The extradition of ———, charged with the crime of ———, to the ——— Government.

ART. II. This decree shall be sent to [the diplomatic representative of the Government seeking extradition] and to the attorney general, who is charged with its execution.

(Signed) MINISTER OF STATE, PRESIDENT OF THE GOVERNMENT.

The execution of this decree should follow immediately upon its issue. The fugitive must be escorted to the frontier of the Grand Duchy at a point indicated by the Government seeking his extradition, where he must be delivered to the agent of the latter. If he should escape and again return to the Grand Duchy no further formalities are necessary than to advise the authorities of the Grand Duchy to have him again delivered in the same way to the agent of the Government seeking his extradition.

Express provisions are made in the treaty for the payment of the expenses of arrest, detention, and transportation of fugitives and for the disposition of articles, found in their possession, which may have been obtained through the commission of acts with which they may be charged.

TRANSIT.

The matter of transit of the territory of the Grand Duchy by a fugitive from the justice of a second country whose extradition has been granted by a third country is regulated by Article III of the law of 1820, which reads as follows:

"Extradition by way of transit of the grand ducal territory may, nevertheless, be granted without taking the opinion of the chamber of arraignment on the simple production, in original or in authenticated copy, of one of the documents of procedure mentioned in the preceding article when it shall have been sought by a foreign State of another foreign State, each bound with the Grand Duchy by a treaty including the offense which has given rise to the extradition and when said transit shall not have been forbidden under the terms of Articles VII and VIII of this law."

The transit of a fugitive across Luxemburg territory must be in the custody of Luxemburg police agents, who will receive the fugitive at a point indicated and deliver him at a point indicated to the authorized agent of the Government claiming the fugitive, or in case of local laws in the country at whose frontiers the fugitive is to be delivered, to the agents of the border country, who will in turn deliver him to the country from whose justice he is a fugitive.

Owing to the geographical situation of the Grand Duchy the matter of transit in taking a fugitive from the Grand Duchy is more complicated. It is impossible to pass from the Grand Duchy without crossing the territory of either Belgium, France, or the German Empire; indeed, if the most practical and convenient route be taken, by way of Hamburg or Bremen, Holland must also be crossed.

As regards Belgium, Article IV of the law of 1874 makes the following provision, very similar to that of the Grand Duchy quoted above:

"ART. 4. Extradition by way of transit across Belgian territory may, nevertheless, be granted without having received the opinion of the chamber of indictments on the simple production of the original or of an authenticated copy of one of the instruments of procedure mentioned in the foregoing article when it shall have been requested for a State with which Belgium has a treaty comprising the offense which gives rise to the demand for extradition and when it shall not be interdicted by article 6 of the law of October 1, 1883, and article 7 of this law."

As regards France, Mr. Vignaud, in 1889, reported that—

"The French Government grants the right of transit across its territory of criminals surrendered by another Government. Usually this favor is obtained through the diplomatic representative of the demanding Government, who is expected to state that the criminal extradited is not a Frenchman, and that his crime is not political, but one at common law. The transit is made in the custody of French agents."

I am ignorant of the German law in regard to transit of the territory of the German Emperor.

Practically it has been found that the production of at least a certified copy of the warrant of arrest is necessary to secure the transit of a fugitive across the territory of any of these countries. Some arrangement should be made with one or all of them to facilitate the transit of fugitives from justice whose extradition has been granted by the Grand Duchy.

File No. 23700/39.

Chargé Bailly-Blanchard to the Secretary of State.

AMERICAN EMBASSY,
Paris, July 30, 1910.

SIR: In compliance with the department's instruction No. 122, I have the honor to send herewith a copy of the letter and inclosure which I addressed to Minister Beaupré at the Hague, with reference to the transit through France of a fugitive from the justice of the United States whose extradition has been granted by the Government of Luxemburg.

I have, etc.,

A. BAILLY-BLANCHARD.

[Inclosure.]

*Chargé Bailly-Blanchard to Minister Beauprê.*AMERICAN EMBASSY,
Paris, July 30, 1910.

SIR: Acting under instructions from the Department of State I have the honor to send you herewith a copy of an extract from the treaty of extradition between France and Luxemburg as far as relates to the question of transit. When Mr. Paxton Hibben, secretary of your legation, was in Paris I fully explained to him the requirements and method of procedure in case of transit through France. For your information I will repeat what I said to Mr. Hibben.

In order that transit be granted through France of a fugitive from the justice of the United States whose extradition has been granted by the Government of Luxemburg it is necessary that a formal demand be made to the foreign office through this embassy, accompanied by either the original or an authenticated copy of the order of arrest or other document upon which the extradition was granted by the Government of Luxemburg. Transit is only allowed by the French Government under the same conditions that extradition would have been allowed.

Further, when transit is granted the prisoner will be taken to the frontier by the Luxemburg authorities, who will deliver him to the French authorities, and by the latter the prisoner will be taken to the port in France decided upon and there handed over to the American official duly authorized to receive him.

I am, etc.,

A. BAILLY-BLANCHARD.

THIRD INTERNATIONAL CONFERENCE ON MARITIME LAW—1910 SESSION.

File No. 66/206.

Minister Bryan to the Secretary of State.

No. 62.]

AMERICAN LEGATION,
Brussels, June 17, 1910.

SIR: I have the honor to report that on receipt this morning of the department's cable instruction of June 16 I called at the foreign office to inquire what decision had been reached concerning the change of date of the International Conference on Maritime Law suggested by me in my note of May 30 last, copy of which I inclose. It was decided while I was there to issue circulars to the Governments interested, naming September 12 as the date for the meeting of the conference, which information I am now cabling to the department.

I have, etc.,

CHARLES PAGE BRYAN.

The Acting Secretary of State to the American Delegation.¹

DEPARTMENT OF STATE,
Washington, August 23, 1910.

GENTLEMEN: You are informed that the International Conference on Maritime Law will reconvene at Brussels on September 12 next, and you are instructed to proceed to that capital accordingly and resume your participation in its sessions and deliberations. If you deem it advisable to do so, you are authorized to arrange for preliminary consultation with your British colleagues, in order that those

¹ Walter C. Noyes, chairman; Charles C. Burlingham, A. J. Montague, and Edwin W. Smith. For report of American delegates, see Foreign Relations, 1911.

principles of law affecting the subjects submitted to the conference which are common to the jurisprudence of America and England may be invoked, if possible, with the weight which would naturally result from agreement between the American and British representatives.

Considering the conventions approved by the conference and referred to the several Governments—

I. The convention for the unification of certain rules in the matter of collision—

The most important point is found in that part of Article IV which provides that in cases of collision with mutual fault damages to cargo shall be apportioned in proportion to the fault "without solidarity," the rule so stated being at variance with the Harter Act of February 13, 1893 (27 Stat., 445), which, as construed by the Supreme Court, relieves the carrying ship from liability for damages to cargo in such cases, but allows the noncarrying ship to recover contribution from the carrier. The reservation as to the effect of national laws in the last paragraph of Article IV relates only to persons on board, and the question arises whether the provision of Article X that the convention shall "not affect the nature and extent of shipowners' liability as they are regulated in each country," preserves the Harter Act, which must be regarded as defining the settled policy of the United States respecting both the relief of carrying ships from direct responsibility and their indirect responsibility for injury to cargo. The department is inclined to think that the language of Article X sufficiently guards and preserves the Harter Act and all the various exemptions, liabilities, and rights thereunder as established by the decisions, but out of abundance of caution you are hereby instructed to procure the insertion in the protocol of an explicit reservation on the subject on behalf of the United States. The precise form of such reservation is committed to your judgment with the following suggestions: The Maritime Law Association of the United States, in a resolution adopted at a meeting held in New York on January 28, 1910, approving the convention in general, has proposed the following form of condition to be inserted in the protocol:

* * * That Article X of this convention shall be understood as reserving all rights given by the statute of the United States of February 13, 1893 (27 Stat., 445), entitled "An act relating to the navigation of vessels, commonly known as the 'Harter Act.'"

Various exporting interests have, however, opposed the convention on the theory that the combined effect of Articles IV and X is greatly to impair the cargo-owner's rights and protection, for since he can not sue the carrying ship under the Harter Act, and Article IV of the convention will not permit him to recover from the stranger ship more than the proportion of its share of responsibility he will have to bear a large part of the loss himself, and where the noncarrying ship is not in fault the entire loss will fall on him. It is urged in this connection that the result would be that cargo owners would have little protection and insurance rates would increase so as to be almost prohibitive. It seems clear to the department that in preserving "shipowners' liability," as regulated in each country, Article X embraces noncarrying as well as carrying vessels "as they are regulated in" this country, and that the liability of both would be unaffected by the provisions of Article IV; in other words, that so far as this country is concerned Article X practically nullifies Article IV. Never-

theless the point suggested in favor of cargo owners is entitled to full consideration, and since this objection to Article X may apply equally to the mere reservation of the Harter Act, as intended only to protect the owners of carrying vessels, it is suggested, in order to obviate these difficulties and to avoid the evils which it is claimed will flow from the combination of Article IV of the convention and section 3 of the Harter Act working together, that the provision to be inserted in the protocol should be in substance as follows:

Article X of this convention shall be understood as reserving all rights secured by the statute of the United States of February 13, 1893 (27 Stat., 445), commonly known as the Harter Act, and as preserving the established rule in the United States that the owner of the noncarrying vessel may be liable for the whole amount of the damage, caused to the cargo.

You will also procure the insertion in the protocol of a paragraph providing that the convention shall apply only to courts of admiralty and maritime jurisdiction, and of a paragraph prescribing that the provision of Article VI, that there are no legal presumptions of fault so far as responsibility for collision is concerned, shall not affect legal presumptions created by the laws of the United States.

Regarding Article VII and the necessity of supplemental legislation by Congress to define the causes of suspension of the limitation of actions, you are instructed to consider the subject and to submit in due course a draft of a statute for that purpose.

With respect to the effect of the convention upon suits in personam as distinguished from suits in rem, with especial reference to the last paragraph of Article VII and to Article X, it seems to have been the intention of the conference to embrace both forms of action. However, if after full consideration and conference among yourselves you reach the conclusion that there is doubt on this point and that such an objection is serious, you will take the necessary steps looking to the amendment of the convention accordingly, either in the body thereof or by an appropriate and adequate paragraph in the protocol.

Subject to the limitations and instructions above stated, and in accordance with your own recommendations, this convention is approved by the department, and you are hereby fully empowered and directed to sign the same on behalf of the Government of the United States.

II. The convention relating to the law of salvage.

After due consideration of the criticisms directed by you at the provisions of Articles V and VII, the department concurs with you in thinking that they do not present adequate grounds for failing to approve the convention.

As to Article X you are directed, as in the case of Article VII of the convention respecting collisions, seasonably to submit a draft for an act of Congress defining the causes of the suspension of the limitation period.

You are hereby empowered and directed to sign on behalf of this Government the convention relating to the law of salvage.

Considering the two proposed projets:

III. Plan of convention on limitation of shipowners' liability.

Subject to your general powers to participate in the conference *ad audiendum et ad referendum*, the further development of this projet on the part of our Government is largely committed to your judgment and discretion and you are authorized to offer such amend-

ments to the plan as you may deem essential or desirable. The department awaits your further reports and such comments or criticisms as you anticipate may be appropriate to be addressed to several of the articles when the projet is in more complete form. It is deemed necessary now to add only the particular instruction respecting the proposed option to a shipowner as to limitation of liability—viz, by abandonment, substitution of value, or payment of a lump sum—to stand firm for our own rule of the value of the vessel and her pending freight, after the accident, as going far enough in the direction of favoring the shipowner. It seems likely that the Continental delegates would support you in this position, and it is possible that unofficial consultation with the British delegates may result in agreement, as, for example, on the basis of value of vessel and freight at the moment of the accident as distinguished from the value taken before, to which apparently the British Government would assent, and the value after, which is our own statutory rule. It seems natural to think that there is some such point or moment between the beginning and end of the voyage which would be in equilibrium between the opposing views. It is for you to determine in the first instance whether or not such a compromise or any other possible adjustment would be sensible and on the whole advantageous.

IV. Plan of convention on hypothecations and maritime liens.

You will act under the same general instructions respecting this projet as were given respecting the project on limitations of liability. As you remark, this projet is still in rather rough form and doubtless will undergo material alterations in the plenary sessions of the conference. The proposals contain more numerous changes from existing American law than the plan on limitation of liability. As to the nature and number of maritime liens and what obligations and liabilities are entitled to that rank, and the other of precedence of liens, you will diligently endeavor to obtain acceptance of the American rules and reasons, unless after careful consideration you are of the opinion that any particular proposal or proposals would affect a desirable reform or evolution in our own law or would constitute a justifiable concession to the harmony and uniformity at which the conference aims. You will be guided by the same principle in regard to other variations from our own doctrines of law.

Your attention is especially called to the fact that, as you note, no lien is proposed in favor of the cargo against the carrying ship for loss due to unseaworthiness or to negligence in the loading, stowage, custody, or delivery of the cargo. It is very important, in the opinion of the department, to obtain all possible protection for shippers consistent with the Harter Act.

Congress having passed at the last session a law relating to liens for maritime repairs and supplies, you will regard that enactment as a recent declaration of the policy of this country and will not agree to any stipulations which would conflict with the same.

It is also desirable to add the following suggestions, which are not, however, to bind you as if they were positive instructions:

Those liens which you deem important and which are omitted from the proposed plan in its present form, and the following liens in particular, (1) in favor of cargo owners or passengers for damage to cargo or baggage in violation of contracts of affreightment and for other violations thereof; (2) for torts other than collision; (3) for

towage, wharfage, lightering, etc.; (4) for personal injuries sustained by passengers or crew; (5) for loss of life should be maintained and insisted on unless, as has already been indicated, some concession or compromise is proposed which meets your approval. As to the lien for loss of life, it seems desirable that the right of action on which it should rest should be explicitly created by the convention, or that a suitable stipulation should reserve to the several countries the right and duty of legislating to that end, where such legislation is necessary.

You are informed that the Maritime Law Association at the meeting last January, referred to above, adopted also the following resolution:

That each of the proposed conventions in regard to limitation of owner's liability and hypothecation and maritime liens be referred to a committee of five of this association, to be appointed by the president, to examine the same and report to the association at its next meeting whether the same should be adopted as proposed, and, if not, what changes or amendments should be made therein.

When the department receives the said report it will be forwarded to you, and it is suggested that informal application by you to the association may expedite its transmission.

You are also informed that recent diplomatic correspondence presents, on the part of the Governments of Belgium, Germany, and the Netherlands, the question of the application of the conventions respecting collision and salvage to the respective colonies and possessions of the interested powers. It is the opinion of the Department of Commerce and Labor, to which the question was referred by this department for an expression of views on the practical aspects, that the conventions may with propriety be applied to the insular possessions of the United States. You will consider the subject carefully in the light of the suggestions, first, that legislation by Congress would apparently be necessary, since, for example, it is uncertain whether under existing legislation the Harter Act is in force in the Philippine Islands, as would clearly seem essential if the convention on collisions is to be applied there; and, second, that both conventions stipulate for another conference three years hence to consider maturely improvements which may be suggested and the extension of the sphere of application. Nevertheless, the question of the proper attitude of this Government at present is entrusted to your judgment and discretion. It is not intended to discourage the immediate extension of the conventions as widely as possible. Necessary legislation might follow the agreement, as in the case of the suspension of statutes of limitation. If, therefore, you deem it advisable to agree ad referendum to the extension of the stipulations of the conventions to colonies and possessions, you will submit a draft of such legislation as you consider essential for that purpose.

Expressing the hope that your mission and its duties may be agreeable and the results harmonious and satisfactory to yourselves and your respective colleagues,

I am, etc.,

ALVEY A. ADEE.

BRAZIL.

DEATH OF JOAQUIM NABUCO, BRAZILIAN AMBASSADOR TO THE UNITED STATES.

File No. 4737/35.

The Brazilian Chargé to the Secretary of State.

EMBASSY OF BRAZIL,
Washington, January 17, 1910.

MR. SECRETARY OF STATE: Referring to the verbal communication of this morning, it is now my painful duty to announce to you the death of Mr. Joaquim Nabuco, the Brazilian ambassador, this morning at 11.40, of cerebral hemorrhage.

Be pleased to accept, etc.,

E. L. CHERMONT.

File No. 4737/35.

President Taft to the President of Brazil.

[Telegram.]

THE WHITE HOUSE,
Washington, January 17, 1910.

For my countrymen and in my own name I offer heartfelt condolence upon the death of Ambassador Nabuco.

WM. H. TAFT.

File No. 4737/35.

The Secretary of State to the Brazilian Chargé.

DEPARTMENT OF STATE,
Washington, January 17, 1910.

SIR: I have the honor to acknowledge the receipt of your note of this date, confirming your previous oral announcement of the death of Mr. Joaquim Nabuco, ambassador extraordinary and plenipotentiary of Brazil near the Government of the United States.

In reply I inclose herewith for your information copies of the telegrams sent to President Pecanha and the American ambassador to Brazil, expressing the condolence of the President and of the Government and people of the United States on the death of the ambassador.

Be pleased, Mr. Chargé, to accept for yourself, the family of Mr. Nabuco, the Brazilian Government, and your Embassy the expression of the President's sorrow and of my own sorrow and that of the other officers of this department at the death of a gentleman whom we all esteemed for his endowments of mind, attractive personality, and courtesy in intercourse, and whose ability and tact have contributed so much to strengthen the friendship of our two countries.

Accept, etc.,

P. C. KNOX.

File No. 4737/35.

The Secretary of State to Ambassador Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 17, 1910.

The Government and people of the United States sincerely deplore the loss Brazil suffers in the death of the ambassador, who in his work among us has won the esteem and good will of all.

KNOX.

File No. 4737/36.

The President of Brazil to President Taft.

[Telegram—Translation.]

Rio, *January 18, 1910.*

Cordially thank you for condolences which in your name and that of the American people you were so good as to send me on the occasion of the death of Ambassador Joaquim Nabuco.

The Brazilian Nation and its Government receive with keen appreciation the demonstrations of sympathy with which the United States of America join us in our great grief over the loss that Brazil and the cause of Pan Americanism have just suffered.

NILO PECANHA.

File No. 4737/38.

Ambassador Dudley to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Rio, January 20, 1910.

Ambassador Dudley says he is in receipt of a telegram from the Brazilian minister for foreign affairs, Rio Branco, stating that the President and the Government and people of Brazil are most profoundly honored by the high and exceptional appreciation shown by the President of the United States and the Secretary of State in honor of the late Ambassador Nabuco and his family, and requests that the cordial and grateful acknowledgement of the Government and people of Brazil be communicated to the United States Government.

Mr. Dudley says Ambassador Nabuco is lamented by his countrymen to an extent which few Brazilian statesmen have ever been, and that universal appreciation is manifested for the honors extended to him by the United States. Says the President's offer of the *Mayflower* is esteemed as an exceedingly high honor to Brazil.

File No. 4727/39 A.

*The Secretary of State to the Brazilian Chargé.*DEPARTMENT OF STATE,
Washington, January 20, 1910.

SIR: I beg to confirm in writing what Mr. Hale, at my request, stated to you orally, that the President will be pleased to place his yacht, the *Mayflower*, at your disposal on the afternoon of Monday,

February 14, to convey the remains of the late Ambassador Nabuco from Washington to Hampton Roads, where the remains will be transferred to the cruiser *Montana*, which will convey them, escorted by yourself, to Rio de Janeiro.

Accept, etc.,

P. C. KNOX.

File No. 4737/40.

The Brazilian Chargé to the Secretary of State.

BRAZILIAN EMBASSY,
Washington, January 21, 1910.

MR. SECRETARY OF STATE: I am directed by my Government to thank the Government of the United States for the part it has taken in our sorrow.

Words fail me, Mr. Secretary, when I attempt to express our deep sensibility of the sympathetic attitude of the American Government on the occasion of our ambassador's death. Indeed, it is impossible to adequately thank the President and you for the noble tribute you pay in your note of January 17 to the character of Ambassador Nabuco and for all the kindness of the American Government toward the ambassador's family. But, you may be sure, Mr. Secretary of State, that all these manifestations of esteem and regard were not bestowed unworthily, for among foreign representatives America has had no sincerer and more devoted friend than Ambassador Nabuco.

Be pleased to accept, etc.,

E. L. CHERMONT.

File No. 4737/41.

The Brazilian Chargé to the Secretary of State.

BRAZILIAN EMBASSY,
Washington, January 22, 1910.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note of January 20, confirming the oral statement made to me, at your request, by Mr. Hale, Third Assistant Secretary of State, in regard to the President's kind offer of his yacht, the *Mayflower*, to convey the remains of the late Ambassador Nabuco, on the afternoon of February 14, from Washington to Hampton Roads, where the remains will be transferred to the cruiser *Montana*, which will convey them, escorted by me, to Rio de Janeiro.

For this courtesy and special honor I am requested by Baron Rio Branco, our minister of foreign affairs, to renew the earnest thanks of the Government of the United States of Brazil to the President and the American Government.

May I be permitted to add that Madame Nabuco and her children, as well as the embassy staff, are profoundly grateful for the tribute paid by the United States Government to the late Brazilian ambassador.

Be pleased, etc.,

E. L. CHERMONT.

File No. 4737/43.

The Secretary of State to the Brazilian Chargé.

DEPARTMENT OF STATE,
Washington, January 27, 1910.

SIR: I have to acknowledge the receipt of your note of the 24th instant, stating you have been informed by the minister for foreign affairs of Brazil that "the battleship *Minas Geraes*, Capt. Baptista das Naves, has received orders to sail the beginning of February from Newcastle to Norfolk to escort the *Montana*."

I have transmitted this information to the Secretary of the Navy. In this connection I beg to inform you that instead of the *Montana*, as stated in my note to you of the 20th instant, the Secretary of the Navy writes me to-day to say that the cruiser *North Carolina* will convey the remains of the late lamented ambassador to Brazil, and that the commanding officer of the ship has been ordered to cooperate with the authorities at Rio in such ceremonies as may occur upon the return of the ambassador's body to his own country.

The Secretary of the Navy further informs me that the commanding officer of the *North Carolina* has been ordered to arrive at Rio de Janeiro on the forenoon of Monday, March 7, and has been directed, if possible, to communicate with the signal station at Cape Brio, Brazil, in order that the exact hour of arrival may be telegraphed to that city in advance.

Accept, etc.,

P. C. KNOX.

NATURALIZATION CONVENTION BETWEEN THE UNITED STATES
AND BRAZIL.

Signed at Rio de Janeiro, April 27, 1908.
Ratification advised by the Senate, December 10, 1908.
Ratified by the President, December 26, 1908.
Ratified by Brazil, December 6, 1909.
Ratifications exchanged at Rio de Janeiro, February 28, 1910.
Proclaimed, April 2, 1910.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a naturalization convention between the United States of America and the United States of Brazil was concluded and signed by their respective plenipotentiaries at Rio de Janeiro on the twenty-seventh day of April, one thousand nine hundred and eight, the original of which convention, being in the English and Portuguese languages, is word for word as follows:

Convention establishing the status of naturalized citizens who again take up their residence in the country of their origin.

The United States of America and the United States of Brazil, led by the wish to regulate the status of their naturalized citizens who again take up their residence in the country of their origin, have

resolved to make a convention on this subject, and to this end have appointed for their plenipotentiaries, viz:

The President of the United States of America, the ambassador extraordinary and plenipotentiary of the United States of America near the Government of the United States of Brazil, Irving B. Dudley, and the President of the United States of Brazil, the minister of state for foreign relations, José Maria da Silva Paranhos do Rio Branco;

Who, thereunto duly authorized, have agreed upon the following articles:

ARTICLE I.

Citizens of the United States of America who may or shall have been naturalized in the United States of Brazil upon their own application or by their own consent will be considered by the United States of America as citizens of the United States of Brazil. Reciprocally, Brazilians who may or shall have been naturalized in the United States of America upon their own application or by their own consent will be considered by the United States of Brazil as citizens of the United States of America.

ARTICLE II.

If a citizen of the United States of America, naturalized in the United States of Brazil, renews his residence in the United States of America, with the intention not to return to the United States of Brazil, he shall be held to have renounced his naturalization in the United States of Brazil; and, reciprocally, if a citizen of the United States of Brazil, naturalized in the United States of America, renews his residence in the United States of Brazil, with the intention not to return to the United States of America, he shall be held to have renounced his naturalization in the United States of America.

The intention not to return may be held to exist when the person naturalized in one of the two countries resides more than two years in the other, but this presumption may be destroyed by evidence to the contrary.

ARTICLE III.

It is agreed that the word "citizen," as used in this convention, means any person whose nationality is that of the United States of America or the United States of Brazil.

ARTICLE IV.

A naturalized citizen of the one party, on returning to the territory of the other, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, but not for the emigration itself, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

ARTICLE V.

The status of a naturalized citizen may be acquired only through the means established by the laws of each of the countries and never by one's declaration of intention to become a citizen of one or the other country.

ARTICLE VI.

The present convention shall be submitted for the approval and ratification of the competent authorities of the contracting parties, and the ratifications shall be exchanged at the city of Rio de Janeiro within two years from the date of this convention.

It shall enter into full force and effect immediately after the exchange of ratifications, and in case either of the two parties notify the other of its intention to terminate the same it shall continue in force for one year counting from the date of said notification.

In witness whereof the plenipotentiaries above mentioned have signed the present convention, affixing thereto their seals.

Done in duplicate, each in the two languages, English and Portuguese, at the city of Rio de Janeiro, this twenty-seventh day of April, nineteen hundred and eight.

[SEAL.]

[SEAL.]

IRVING B. DUDLEY.
RIO BRANCO.

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Rio de Janeiro, on the 28th day of February, 1910;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 2d day of April, in the year of our Lord 1910, and of the independence of the United States of America the one hundred and thirty-fourth.

WM. H. TAFT.

By the President:

P. C. KNOX,

Secretary of State.

MESSAGE OF THE PRESIDENT OF BRAZIL TO THE BRAZILIAN CONGRESS.

Ambassador Dudley to the Secretary of State.

[Extract.]

No. 539.]

AMERICAN EMBASSY,
Petropolis, May 27, 1910.

SIR: I have the honor to inclose the Department of State herewith two copies of the message of President Peçanha to the Federal Congress, read at the opening of the current session of that body on the 3d instant, and to accompany it with a translation of some of the preliminary portion and of all relating to Brazil's foreign relations.

Among international matters mention is made of the death of Ambassador Nabuco and of the eloquent mark of distinction shown his memory by the United States, "associating itself with us in our

mourning," in the transfer of his body in one of the powerful men-of-war of the American Navy to its final resting place on Brazilian soil.

Allusion is made to the recent treaties concluded by this country with Uruguay and Peru, each of which has now been duly ratified by the signatories, thus ending for Brazil any further question of substantial importance respecting the location of her borders.

The three parcel-post conventions, respectively with France, the United States, and Germany, were submitted to congress for ratification—that with France last year and the remaining two in April last at the special session—but are still awaiting its action, which now should not be expected before August or September, next.

The naturalization convention signed on August 23, 1906, at the Pan American Conference by Brazil, the United States, and other powers, was approved by Brazil in October, 1909, but, it is stated, will not be promulgated until approved by the other Governments represented at the conference. The one concluded for the same purpose between Brazil and the United States alone was promulgated by this country on March 10, last.

None of the 23 arbitration treaties or conventions mentioned as concluded by Brazil have been ratified here, with the exception of the one with Chile and the one with Argentine in 1906. That concluded with the United States at Washington in January, 1909, has been the inspiration and model of the numerous subsequent accords.

It is understood that drafts have been prepared by Brazil of a code of public international law and another of private international law for presentation to the International Conference of Jurisconsults which is to meet at Rio de Janeiro, after repeated postponements, on May 22, 1911. The work was intrusted to a judge of the Brazilian supreme federal tribunal, Dr. Epitacio Pessoa, who is regarded as one of the ablest members of his profession in Brazil.

In addition to the parcel-post conventions mentioned and the numerous arbitration conventions, there also awaited the ratification of congress at its opening this month specified acts of the Pan American Conference of 1906; the convention of August 23, of that year, relative to patents, trade-marks, and copyright, as well as four resolutions of the conference.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

Extracts from the message addressed by the President of Brazil to the National Congress upon the occasion of its opening on May 3, 1910.

TO THE MEMBERS OF THE NATIONAL CONGRESS:

With an immediate view to agriculture I established the ministry of agriculture, industry, and commerce, having requisitioned from the State of Sao Paulo the cooperation and proved competence of its men for this service of such promising results.

In deference to an ancient aspiration of the country, the Government instituted industrial education throughout the whole Republic, and the shops of these new institutions are already frequented by hundreds of scholars. The Government also commenced to care for agricultural education, having promoted, as it should, the cultivation of new crops, and put into execution a more vast plan tending to the exploration of our mines, which are richer than those of countries which base the fundamentals of their prosperity on this industry.

The four-year term which is about to end realizes, in relation to railways, the aspirations which arose in the early days of our national existence and which, with honor

to the clear foresight of our ancestors, bear witness to the spirit of fidelity and perseverance which has presided over the formation of the progress of our country.

The Central [Railway] of Brazil has reached the banks of the Sao Francisco River, the point our first statesmen had in view when they decreed the great road.

Within a short time the federal capital will be connected with the southern boundary by the Sao Paulo-Rio Grande [Railway], and in contact with the friendly nations which surround us there; the other line, that of Matto Grosso, which will facilitate our relations with the frontier countries on the southwest, is well under way; and the Government, having given a strong impulse to lines in the interior, having authorized the electrification of some of them, thus utilizing our waterfalls, continues interested in the development of those international lines which must contribute greatly to the stimulation of commercial intercourse and to strengthen the ties of friendship with the sister Republics.

Our ancient boundary questions were finally resolved, and to-day the country knows definitely all of the extension of its territory. The country well knows that this great work is due to the Minister Rio Branco, who, rectifying our frontiers, bringing together American peoples and interesting high spirits of the Old World in the evolution of Brazil, has become the mark of the lasting gratefulness of our country.

Spontaneous immigration shows statistics in excess of two-thirds over the former periods of subsidized immigration. While attracting the foreign workman and surrounding him with comfort, the Government could not be indifferent to the deplorable situation of the populations of the North in their affliction by drought, and for this reason it gave a permanent and systematic organization to the work destined to attenuate their position. There have already been taken steps looking toward the sanitation of the flats of Rio de Janeiro by means of dredging the rivers which empty into the Bay of Guanabara (Rio de Janeiro), work which will make available to stock raising and agriculture an area of about 4,000 [square] kilometers in the vicinity of this capital. The sanitary rehabilitation and embellishment of Rio de Janeiro continues to preoccupy the Government, which has undertaken the transformation of the Quinta da Boa Vista, (old residence of the Emperor), and has resolved, among other things, the question of electric illumination and the leasing of the docks of the port of this capital.

The codification of the laws on process of the Federal capital, which will abolish useless formulas and customs, thus simplifying, so far as possible, the operation of justice and making the judgment of cases more prompt, is nearly finished.

The questions of social, political, and administrative character which have arisen in this period have received constitutional solutions, and excepting the plurality of remuneration of public, civil, and military employments which the Government prohibited—its act, however, not having elicited the assent of the other powers—and that of immunity from duties so prejudicial to the proper collection of revenue and which also did not merit your support, all others were generally well received, including that which formally signalized the abstinence of the State from participation in religious ceremonies, guaranteeing, nevertheless, the liberty of all sects.

By practicing a policy of rigorous restriction of public expenses the Government was enabled during the last few months to commence remittances to Europe of funds which have attained a sum in excess of £9,000,000. The Government being in this manner enabled to meet the payments for the new squadron and the new equipment for the army, as well as other obligations of a national character, considered it to be its duty, availing itself of the authorization conceded in a timely hour by the National Congress, to anticipate the amortization of our foreign debt, suspended by the funding loan. This measure, which relieved the difficulties imposed by that agreement, produced a beneficial result in the country and abroad.

The public credit thus consolidated, and the quotations of our securities elevated, the operation of the conversion of interest from 5 per cent to 4 per cent became necessary, and the Government did not hesitate to undertake it. The part already realized in the markets of London and Paris has given excellent results.

The economies of the budget were not sufficient, however, to meet the expenditures of the anticipation of the amortization of our foreign debt; neither were the economies resulting from conversion sufficient. Some other measure was necessary to reduce the annual figure of our gold obligations, and this measure was the redemption of the loan of 1879.

The prices of our products have remained high. The conversion office has its deposits elevated during these months of government from £5,000,000 to £17,267,764-6-4, and its emissions, from Rs.93,000,000\$ (\$23,179,000) to Rs.276,284:229\$124 (\$33,714,121).

With regard to the operations of foreign credit, I have, at all opportunities, made it clear that the union would assume no responsibility whatever in connection with

loans contracted for by the States, as in its opinion the excessive liberty at their disposition to undertake them may become noxious to the general credit of Brazil.

FOREIGN AFFAIRS.

Our foreign relations with other nations happily are maintained unaltered. In order to strengthen these relations, to improve them, removing the causes of misunderstanding and promoting the harmony necessary to the competent collaboration in the work of American progress, my Government has worked assiduously in continuing the work of its predecessors. Flattering results have come to crown this sincere and pertinacious effort so far as concerns us individually and separately.

At this moment no cloud darkens the international horizon of Brazil and we have more than sufficient reason to compliment ourselves on the celebration of the last pacts defining our frontier diplomatic achievements of prolonged historical reflection and in which you so intelligently and patriotically took a capital part.

Brazil knows to-day what it has of its own, which is much and will be immensely more, thanks to the productive work of its sons, who are ambitious to prove that they deserve such a rich patrimony, and to the foreigners, whom the broad hospitality of this country will soon turn into Brazilians.

But, if we feel ourselves tranquil and secure, the same does not happen with some of the friendly and neighboring nations of the Pacific, where questions which appeared to be on the road to amicable settlement have suddenly taken on the abrupt character of a conflict which will menace American peace.

While respecting the just susceptibilities of the sovereign governments deeply interested in clearing grievances and obtaining reciprocal reparations, Brazil formulates the most cordial wishes for the prevalence of calmness and wisdom in the spirits agitated by the noble passion of patriotism, and that once more the scourge of war may be averted from our continent, above all in this year when two of our enlightened sisters, Argentina and Chile, are preparing to commemorate the first centennial of their political emancipation.

Among the great collaborators of the Government in its international policy we have to lament the loss of Ambassador Joaquin Nabuco, who died at Washington on the 17th of January last. His death was not bemoaned only by his fellow citizens. The Government of the United States of America, associating itself with our mourning, saw fit to give to the memory of the Brazilian ambassador significant testimony of its affection, transporting the body in one of its powerful warships of its fleet to rest on Brazilian soil.

In the dominion of our international policy the two most important acts celebrated since the opening of the first session of the present legislature are the treaty of September 8, 1909, between this Republic and Peru, completing the demarcation of the frontiers of the two countries and establishing general principles of commerce and navigation in the basin of the Amazon, and the treaty of the 30th of October last, modifying our frontiers with the oriental Republic of Uruguay on Lake Merim and the River Jaguarão and establishing general principles of commerce and navigation in those far-off districts.

After these two agreements we can say that we know what, definitely, are our boundaries, what is the territorial extent of Brazil, and to what limits the activity of the Brazilian people may be regularly and pacifically exercised with its neighbors without further possibility of disagreements and conflicts.

To-day we have our frontiers defined with all the countries which surround us—with French Guiana, by the arbitral decision of December 1, 1900; with Dutch Guiana, by the treaty of May 5, 1904; with British Guiana, by the arbitral decision of June 6, 1904; and with the following Republics: Venezuela, by the treaty of May 5, 1859; Colombia, of April 24, 1908; Ecuador, of May 6, 1904; Peru, convention of October 23, 1851, modified in part by the accord of February 11, 1874, and completed now by the treaty of September 8, 1909; Bolivia, by the treaties of March 27, 1867, and of November 17, 1903, which only require ratifications or explanatory declarations with reference to the mark of the Rio Verde (treaty of 1867) and with reference to the portion from the Abunan to the slough Bahia (treaty of 1903); Paraguay, by the treaty of January 5, 1872; Argentina, by the arbitral decision of February 5, 1895, and by the treaty of October 6, 1898; and with Uruguay, by the treaty of October 12, 1852, described, so far as concerns the most southern stretch of the frontier, by the accord of April 22, 1853, and altered, with reference to Lake Merim and the River Jaguarao, by the treaty of the 30th of October last.

Our last two boundary treaties, with Peru and Uruguay, merited your approval at the extra session which has just ended and were ratified by the contracting Governments. The exchange of ratifications of the treaty between Brazil and Peru was

effected the day before yesterday in this city, so that this act is complete, lacking only the promulgation.

The exchange of ratifications of the treaty with Uruguay should soon be realized.

I hope that the small questions of form which have delayed the signing of an act declaratory of the demarkation of the frontier between Brazil and the Argentine Republic may soon be resolved.

For the small section not comprehended in the demarkation, between the confluence of the Quarahim and the extreme western end of the island Brazileira, or island of Quarahim, we proposed a special treaty or convention, if the matter can not be resolved by means of a complementary and declaratory article.

The mixed commission for the demarkation of the frontier between Brazil and Bolivia terminated its work in Matto Grosso, as well as the location of the Rio Verde, in the terms of the accord of February 8, 1907. This year, as soon as the condition of the streams permits, it will proceed to Amazonas to mark the boundaries from the Madeira to the confluence of the Yaverija with the Alto Acre, as this is the meeting point of the new Peru-Bolivian boundary according to the protocol signed at La Paz on the 17th of September last by the plenipotentiaries of Bolivia and Peru.

I am going to encourage the exchange of ratifications of the treaty of commerce and navigation which we celebrated separately with each of the Republics of Ecuador and Colombia, signed at Rio de Janeiro, the first on May 10, 1907, and the second on August 21, 1909, both having already received your approval. The legislative decrees authorizing these exchanges bear, respectively, Nos. 2086 and 2247, under the dates of August 10, 1909, and of the 27th of April last.

The Brazil-Peruvian accord, signed at Lima on April 15, 1908, for the navigation of the Rio Japura, or Caqueta, was approved by the national congress and sanctioned by the legislative decree No. 2098, of the 14th of September last, which approved it.

I trust that the conclusion of the treaties of commerce and navigation with Bolivia and Chile may not be delayed. The first of these is becoming more and more urgent on account of its being an obligation assumed in the boundary treaty of November 17, 1903.

In a message of July 13, 1907, there was submitted to your decision a convention to determine the status of naturalized citizens who again take up their residence in the country of their origin, this agreement being signed on August 23, 1906, at the Third Pan American Conference; and in another message, of May 22, 1908, the convention which, for the same purpose, we signed at Rio de Janeiro on April 27 of this year with the United States of America, was also recommended to you. The first was sanctioned by decree No. 2115, of October 8, 1909, but its promulgation was effected only after the said convention was approved by the other Governments represented at the conference; the second was sanctioned by decree No. 2116, of September 8, 1909, and, after the exchange of ratifications in this city on the 28th of February, was promulgated by decree No. 7899 of the 10th of March last.

There were signed in this city the following postal conventions:

1. With France, on June 3, 1909, for the exchange of parcels without declared value.
2. With the United States of America, on March 26 last, for the exchange of parcels.
3. With Germany, on the 20th of April last, for the same purpose.

The first was submitted to your examination and decision in a message of November 17, 1909, and the last two in a message of the 23d of April last. In the other three contracting countries the agreements of this nature do not require legislative approval.

In messages of June 11, September 8, November 23, and December 24 I submitted to your approval several treaties and conventions of general arbitration concluded by Brazil with different Governments of America, Europe, and Asia. The following are the agreements of this nature which we have celebrated:

1. Treaty with Chile, of May 18, 1899 (exchange of ratifications on Mar. 17, 1906).
2. Treaty with Argentina, of September 7, 1905 (ratifications exchanged on Dec. 5, 1908).
3. Convention with the United States of America, on January 23, 1909.
4. Convention with Portugal, on March 25, 1909.
5. Convention with France, on April 7, 1909.
6. With Spain, on April 8, 1909.
7. With Mexico, on April 11, 1909.
8. With Honduras, on April 26, 1909.
9. With Venezuela, on April 30, 1909.
10. With Panama, on May 1, 1909.
11. With Ecuador, on May 13, 1909.
12. With Costa Rica, on May 18, 1909.
13. With Cuba, on June 10, 1909.
14. With Great Britain, on June 18, 1909.

15. Treaty with Bolivia, on June 25, 1909.
16. Convention with Nicaragua, on June 28, 1909.
17. With Norway, on July 13, 1909.
18. With China, on August 3, 1909.
19. With Salvador, on September 3, 1909.
20. Treaty with Peru, on December 7, 1909.
21. With Sweden, on December 14, 1909.
22. With Haiti, on April 25, 1910.
23. With the Dominican Republic, on April 28, 1910

All of the treaties and conventions from Nos. 3 to 20 have already been submitted to your examination. Other agreements of the same nature are being negotiated.

The Brazil-Bolivian Arbitral Tribunal, which held its sessions in this city under the presidency of the Nonce Apostolique, terminated its labors on the 3d of November last. It began on May 20, 1905, and interrupted its session on May 20, 1906, resuming them again on November 3, 1908. During the first of these periods it was principally occupied with its organization and the study and examination of reclamations presented; during the second, it judged all of these reclamations.

The Brazil-Peruvian Arbitral Tribunal continues its sessions here, also under the presidency of the Nonce Apostolique. If there be no new postponement it should terminate its labors on July 31.

The International Conference of Jurisconsults, which was to meet this year at Rio de Janeiro, was postponed to May 21, 1911. It will be composed, as you know, of delegates from the American Republics and will be called upon to organize a code of public international law and another of private international law.

Brazil was, and continues to be, represented at the International Conference of Maritime Law at Brussels. It also sent representatives to the following congresses and conferences: Third International Congress of History and Music, in Vienna (May 25 to June 2, 1909); Fourth International Lacticinium Congress, at Budapest (June 1909); Second International Congress charged with determining the nomenclature of the causes of death, in Paris (June 1 to 3, 1909); Seventeenth International Irrigation Congress, at Spokane (August 9 to 14, 1909); Second International Congress for the Protection of Infants, Budapest (August 28, 1909); Fifth International Congress of the Resistance of Materials, in Copenhagen (September, 1909); and the International Medical Congress, Budapest.

With the presidential message of November 16 of last year there were remitted to you:

1. The convention of August 23, 1906, relative to patents and inventions, industrial models and designs, trade-marks and copyrights.
2. The resolution of August 7, 1906, reorganizing the international office of the American Republics.
3. The resolution of August 23, 1906, with reference to the Pan American Railway.
4. The resolution of August 13, 1906, recommending the creation of special dependent sections of the foreign office and specifying their functions.
5. The resolution of August 23, 1906, recommending the celebration of an international American conference which should adopt efficient measures for the benefit of products of coffee.

All of these international acts are awaiting legislative action.

The following foreign adhesions to acts to which Brazil is a party were communicated to us:

1. Of the Empire of Ethiopia to the Universal Postal Convention; decree No. 7,441, of June 24, 1909.
2. Of the Colony of Surinam to the agreements of Rome of May 26, 1906, relative to letters and boxes with declared value and the mode of collection; decree No. 7,624, of October 21, 1909.
3. Of Servia to the additional act of Brussels modifying the international convention of March 20, 1883, for the protection of industrial property; decree No. 7,840, of January 27, 1909.

PREFERENTIAL TARIFF CONCESSIONS IN FAVOR OF AMERICAN PRODUCTS.

File No. 18643/13.

Ambassador Dudley to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Petropolis, January 16, 1910.

Ambassador Dudley reports that Brazil has granted to the United States a differential tariff reduction of 20 per cent during 1910 on 11 articles which were so favored in 1909, and which will be construed to include alarm clocks, and in addition cement, desks, dried fruit, school furniture, and corsets.

File No. 18643/15.

Ambassador Dudley to the Secretary of State.

[Extract.]

No. 474.]

AMERICAN EMBASSY,
Petropolis, January 17, 1910.

SIR: I have the honor to inclose herewith the list¹ communicated to this Government, of articles of American production proposed for preferential treatment. Of those articles the following,¹ when imported into Brazil during 1910, have been granted a reduction of 20 per cent from the general tariff rates by an executive decree of the 15th instant, a translation of which may be found herewith.

The effect of the decree is to add to our preferential list, as it has stood during the past few years, cement, dried fruits, alarm clocks, desks, corsets, and furniture for schools.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure—Translation.]

Continues in force during the present year decree No. 6079 of June 30, 1906, including other articles when imported on and after this date.

The President of the Republic of the United States of Brazil, availing himself of the authorization contained in article 6 of law No. 1144, of the 30th of December, 1903, continued in force by article 13 of law No. 2210, of the 28th of December last, resolves that decree No. 6079, of June 30, 1906, be observed during the present year, there being added to the articles mentioned in it the following: Cement, corsets, dried fruits, furniture for schools, and desks; provided that the reduction in duties in reference to the latter shall be given effect only when they are dispatched from this time on.

Rio de Janeiro, January 16, 1910, eighty-ninth year of the independence and twenty-second of the Republic.

NILO PEÇANHA.
LEOPOLDO DE BULHOES.

File No. 18643/13.

The Secretary of State to Ambassador Dudley.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 22, 1910.

Mr. Knox directs Ambassador Dudley to express the high appreciation of the Government of the United States of the action of the Brazilian Congress in extending and continuing the list of American products to enjoy preferential tariff treatment.

BULGARIA.

EXTRADITION OF VAHAN NALBANDIAN GRANTED BY BULGARIA AS AN ACT OF GRACE.

File No. 21614/4.

Chargé Harvey to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Bucharest, February 5, 1914.

Mr. Harvey says that Vahan Nalbandian, who is wanted by the police of Lynn, Mass., for murder, is held by the Bulgarian authorities, and that if extradition papers are sent at once the prisoner will be surrendered upon their presentation.

File No. 21641/9.

Chargé Harvey to the Secretary of State.

No. 52, Bulgarian series.]

AMERICAN LEGATION,
Bucharest, February 5, 1910.

SIR: I have the honor to report on January 8 I received from Mr. Thomas M. Burckes, chief of police of Lynn, Mass., a communication stating that one Vahan Nalbandian had been indicted by the grand jury of Essex County in that State for the murder of one Minas K. Monigan, and that the said Nalbandian was supposed to be at Silistra, Bulgaria. He inclosed a circular police description, with pictures of the accused, and asked that the Bulgarian authorities be communicated with and the man apprehended and placed under arrest to await the receipt of extradition papers from his Government.

I immediately went to the Bulgarian Legation in this city and communicated to them the request as above stated, and gave them the circular and picture of the accused. Yesterday I received a letter from the State's attorney (procureur du tribunal), of Silistra, Theodore Maneff, stating that Nalbandian has been arrested and had acknowledged that he was the person wanted by the Lynn police. After consultation with the Bulgarian Legation as to whether their Government would permit the extradition of the accused, there being no treaty of convention of extradition between the two countries, I telegraphed the Bulgarian foreign office, stating that Nalbandian was wanted by the American police for a murder committed at Lynn, and that he had been arrested in Bulgaria and was now being held on my demand, and asked whether the Bulgarian Government would permit his extradition upon the presentation of the necessary papers, and whether they would hold the prisoner until such papers should arrive.

In response, I received a telegram last night from the Bulgarian Government stating that they had instructed their legation here how to act in the matter. This morning I received a message by telephone from the Bulgarian Legation that their Government would

surrender the accused on the presentation of proper extradition papers if the same were sent without delay. I immediately telegraphed the department that the accused was wanted by the Lynn police and that the Bulgarian authorities would surrender him on presentation of the proper extradition papers.

I have, etc.,

ROLAND B. HARVEY.

[Inclosure—Translation—Telegram.]

Chargé Harvey to the Bulgarian Minister for Foreign Affairs.

AMERICAN LEGATION.
Bucharest, February 4, 1910.

Vahan Nalbandian, sought for by American police for murder at Lynn, Mass., is held by Bulgarian authorities at Tirnove on my request. Will the Bulgarian Government grant extradition upon presentation of necessary documents, and will it retain the prisoner until the arrival of the said documents from America?

HARVEY.

File No. 21641/10.

Chargé Harvey to the Secretary of State.

No. 54, Bulgarian series.]

AMERICAN LEGATION,
Bucharest, February 7, 1910.

SIR: Referring to the matter of the extradition of Vahan Nalbandian, the subject of my No. 52, Bulgarian series, of the 5th instant, I have the honor to inclose herewith a copy and translation of a note this day received from the Bulgarian Legation in this city, stating that they will surrender the said Nalbandian, and a copy of my reply thereto.

I have, etc.,

ROLAND B. HARVEY.

[Inclosure—Translation.]

The Royal Bulgarian Legation to Chargé Harvey.

No. 78—Urgent.]

[Note verbale.]

BUCHAREST, January 23, 1910.

In reply to the verbal requests made by M. le Chargé d'Affaires of the United States in regard to the search for and arrest of one Vahan Nalbandian, the royal legation of Bulgaria has the honor to inform the legation of the United States of America that according to a communication from the royal ministry for foreign affairs the individual in question has just been arrested by the authorities of Silistra.

In bringing the foregoing to the knowledge of the honorable legation of the United States the royal legation of Bulgaria has the honor to beg it to take the necessary steps at its earliest convenience and request the extradition of the said V. Nalbandian of the royal Government, annexing the necessary papers.

[Inclosure 2.]

Chargé Harvey to the Royal Bulgarian Legation.

[Note verbale.]

AMERICAN LEGATION,
Bucharest, February 7, 1910.

The diplomatic agency of the United States of America has the honor to acknowledge the receipt of the note verbale of the royal legation of Bulgaria of January 23 and February 5, in which the royal legation informs this agency that Vahan Nalbandian

has been arrested by the authorities at Silistra, and requests this agency to take the necessary steps as soon as possible to obtain the extradition of the said Nalbandian from the Royal Government.

The agency has the honor to inform the royal legation that it has telegraphed to the American authorities as to the above facts, and that it has received word from the chief of police of Lynn, Mass., where the alleged murder took place, that the necessary documents are being prepared and will be dispatched from America with all the haste that is possible.

File No. 21641/8.

Chargé Harvey to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Bucharest, February 17, 1910.

Acknowledges department's February 5: Reports Nalbandian matter taken up first with Bulgarian Legation and fact that extradition treaty does not exist made plain, Bulgarian minister stating that he was fully aware that under such circumstances the Government of the United States could not reciprocate, and at his suggestion telegram was sent to Bulgarian foreign office asking if Nalbandian would be surrendered by Bulgarian Government on presentation of formal demand. Says in reply to his request he was informed that the Bulgarian Legation had been instructed to act, and next day formal notice was received from the Bulgarian Legation that Nalbandian would be surrendered. Mr. Harvey adds that nothing was said about reciprocal action, but in an informal conversation afterwards the Bulgarian minister intimated that in the present case his Government did not desire to raise this point. Says the prisoner is now held until presentation of extradition papers, and asks if it is the desire of the department that the Bulgarian Government be notified again, formally, that the Government of the United States can not reciprocate.

File No. 21641/5.

The Secretary of State to Chargé Harvey.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1910.

Mr. Knox acknowledges legation's February 5, and instructs Mr. Harvey to ascertain if the Government of Bulgaria will look with favor upon a request for the surrender of Nalbandian purely as an act of grace, at the same time clearly and definitely indicating that the laws of the United States will not permit extending reciprocal favor; that if Bulgaria is willing to take such action to informally bring the matter to the attention of the proper officials and request the provisional arrest and detention of the fugitive as a pure act of grace, stating that the extradition papers will be forwarded immediately. Mr. Knox adds that in making the formal request the inability of the Government of the United States in the absence of treaty, to reciprocate, must be clearly set forth.

File No. 21641/8.

The Acting Secretary of State to Chargé Harvey.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1910.

Mr. Wilson acknowledges legation's February 17, and says extradition papers will be forwarded by next mail, and upon their receipt to request surrender of Nalbandian as an act of grace on murder charge, formally stating in his note of request that, on account of limitations placed on power of Executive in United States, it will not be possible, in absence of treaty of extradition, for this Government to reciprocate considerate action of the Government of Bulgaria, expressing at the same time the high appreciation of the Government of the United States for the courtesy extended by the authorities of Bulgaria in expressing their willingness to surrender Nalbandian. Mr. Wilson adds that information relative to agent who is to receive surrender will be sent later.

File No. 21641/8.

The Acting Secretary of State to Chargé Harvey.

No. 30.]

DEPARTMENT OF STATE,
Washington, February 19, 1910.

SIR: I inclose the extradition papers in the case of Vahan Nalbandian, alias Frank Jones, whose extradition from Bulgaria is desired by the State of Massachusetts. You will transmit the papers to the Foreign Office and request, as an act of grace, the surrender of Nalbandian upon the charge of murder. You will at the same time formally state in your note of request that owing to the limitations placed upon the power of the Executive in this country it will not be possible for this Government, in the absence of a treaty of extradition, to reciprocate this considerate action of the Bulgarian Government. You will also express the high appreciation of this Government for the courtesy extended by the Bulgarian authorities in expressing their willingness to surrender this man.

I am, etc.,

HUNTINGTON WILSON.

File No. 21641/16.

Chargé Harvey to the Secretary of State.

No. 9, Bulgarian series.]

AMERICAN LEGATION,
Bucharest, April 7, 1910.

SIR: Referring to the case of Vahan Nalbandian, whose extradition from Bulgaria was asked for by the police authorities of Lynn, Mass., on the charge of murder committed in that city, I have the honor to inform the department that after the receipt of the department's instruction, Bulgarian series No. 30, of February 19, and upon the arrival of Stacey R. Burckes, the special agent of the President, named in the warrant accompanying the extradition papers inclosed

in the said instruction No. 30 (Mar. 13), I prepared, with the aid and advice of Mr. Carter, a note to Gen. Paprikoff, the minister for foreign affairs of Bulgaria, a copy of which I herewith inclose, formally asking for the extradition of the said Nalbandian as an act of grace on the part of the Bulgarian Government, and again informing them, as I had previously done in the case of the Bulgarian Legation in this city, that, owing to the limitations placed by the Constitution of the United States upon the Executive, my Government would not be able to reciprocate under like circumstances.

As neither Mr. Burekes nor Mr. Wells, who accompanied him, could speak any language except English and were entirely unfamiliar with the necessary formalities in these countries, and as I was about to proceed to Sofia anyhow, Mr. Carter and myself considered it necessary for me to proceed to Sofia with the agents above referred to. We arrived at Sofia in the evening of March 15, and I obtained an audience and presented my note to Gen. Paprikoff in person, on the morning of March 17. I went over the matter fully with him and with Mr. Radeff, the chief of the political section, who had the matter in charge, and reiterated the impossibility of my Government to reciprocate. Gen. Paprikoff at once stated that he thought there would be no difficulty about the matter, but that, as it would have to be referred to the minister of justice, and that as some if not all the papers would have to be translated into Bulgarian, he would not be able to give me definite word before Saturday, March 19. On that day I received an informal communication that the extradition would be granted and that the formal papers would be delivered to me on Monday. I immediately communicated to Mr. Carter the information received, and steps were at once taken at Bucharest to arrange for his transit across Roumania and Hungary to Fiume, as that route seemed to be the least troublesome and most expeditious, there being a Cunard Line steamer, the *Ultonia*, sailing from that port on April 2. On Monday I received a formal notice from the Bulgarian Government that the extradition would be granted. The Bulgarian Government also informed me that it would assume all the expenses incident to the retention of the prisoner while in Bulgaria, as well as his transportation to whatever port or city on their frontier that we might designate for his delivery to our agents. It also refused to allow me to pay for the translation of the papers, or, in fact, to bear any part of the expenses incurred in the whole matter while in Bulgaria. The whole attitude of the Bulgarian authorities was most courteous and obliging, and I took pains to assure them of the great appreciation of my Government and the legation.

I have, etc.,

ROLAND B. HARVEY.

[Inclosure.]

Chargé Harvey to the Minister for Foreign Affairs.

AMERICAN LEGATION,

Bucharest, March 14, 1910.

MR. MINISTER: With reference to my telegram to your excellency of the 4th ultimo and the telegraphic reply thereto signed "Conseiller Dimitroff," in which I was referred to the legation of His Majesty at Bucharest, all relating to the extradition of Vahan Nalbandian, alias Frank Jones, sought by the American police on the charge

of murder committed in the city of Lynn, State of Massachusetts, United States of America, and now held at Silistia by the procurer of the tribunal, I have the honor to transmit herewith the warrant of the President of the United States authorizing Stacey R. Burckes, as his agent, to receive the accused and conduct him to the United States, and also all the other necessary documents pertaining to the case, properly authenticated. I may mention that Mr. Burckes is the inspector of police of the city of Lynn and is accompanied by Mr. Arthur G. Wells, of the State police.

Following upon the negotiations between this legation and that of His Majesty at Bucharest, I have now the honor to request formally as an act of grace on the part of His Majesty's Government, the extradition of the said Vahan Nalbandian, alias Frank Jones, on the charge of murder, and that the necessary steps may be taken to deliver him to the above-mentioned agent of the President, Mr. Burckes.

I have the honor to express to your excellency the high appreciation of my Government for the great courtesy extended to it in this case by the Government of His Majesty the King of the Bulgarians, especially under the circumstances. As your excellency is no doubt aware, owing to the limitations imposed by the Constitution of the United States upon the Executive, it will not be possible, there being no treaty of extradition at present existing between the two countries, for my Government to reciprocate the gracious action on the part of the Government of His Majesty.

In assuring your excellency of my high consideration, I have, etc.,

ROLAND B. HARVEY.

File No. 21641/15.

Minister Carter to the Secretary of State.

[Extract.]

No. 63, Roumanian series.]

AMERICAN LEGATION,
Bucharest, April 9, 1910.

SIR: With reference to the department's No. 30, Bulgarian series, of February 19 (File No. 21641/7), relating to the extradition of Vahan Nalbandian, the statement of the case in Mr. Harvey's No. 9, Bulgarian series, of the 7th instant, is so full that I have little to add for the information of the department.

During Mr. Harvey's absence at Sofia I arranged with the Austrian Legation here for the safe conduct of the United States agents with their prisoner across Austrian territory to Fiume, and with the foreign office at Bucharest for their transit by way of Roumania.

At the last moment, however, the minister for foreign affairs informed me that permission for the transit of the prisoner could not be granted. This refusal was based upon the grounds that having no extradition treaty with us, Roumanian law demanded the same process for the transit as if it were a question of a case of extradition and, besides, that the prisoner being extradited on the charge of murder, for which the penalty in the United States is death, the transit could not have been effected in any case unless our Government promised not to exact the death penalty.

That the law of the country did not permit it I could not question, but I did express my regret that I should not have been so informed either on the day I made the request or at least in sufficient time during the 10 days thereafter to enable me to change the arrangement.

However, by the great courtesy and prompt action of the officials of the Bulgarian, Servian, and Austrian Governments, the arrangements were speedily altered so that the agents with their prisoner were thereby enabled to reach Fiume the very morning of the day their ship sailed.

I may mention that at the request of the agents I sent Mr. Bancroft, the clerk of this legation, with them to help them on their way. His

presence of mind at the Austrian frontier, owing to our late change of plans (the instructions to the police had not arrived), made it possible for the agents to proceed by the one train which got them to their destination in time.

I have, etc.,

JOHN RIDGELY CARTER.

File No. 21641/16.

The Secretary of State to Chargé Harvey.

No. 28.]

AMERICAN LEGATION,
Bucharest, April 25, 1910.

SIR: The department has received your No. 9 of the 7th instant, in regard to the extradition of Vahan Nalbandian, and commends your manner of procedure in this case.

You will convey to the Bulgarian foreign office an expression of this department's high appreciation of the very gracious and friendly action of the Bulgarian Government in this matter.

I am, etc.,

P. C. KNOX.

File No. 21641/15.

The Secretary of State to Minister Carter.

No. 29.]

DEPARTMENT OF STATE,
Washington, April 25, 1910.

SIR: The department has received your No. 63 of the 9th instant, in regard to the extradition of Vahan Nalbandian, and commends the legation upon its manner of procedure in this case.

You will convey to the appropriate Servian and Austrian officials the thanks of the department for the courtesy extended in the matter of transit.

I am, etc.,

P. C. KNOX.

**COLLECTION OF SUPPLEMENTARY INCOME TAX FROM FOREIGN-
ERS ENGAGED IN BUSINESS IN BULGARIA.**

File No. 566/13.

The Secretary of State to Chargé Harvey.

No. 26, Bulgarian series.]

DEPARTMENT OF STATE,
Washington, February 9, 1910.

SIR: The department has received and read with interest your No. 49, Bulgarian series, of the 25th ultimo,¹ relative to the trip which you took to Sofia for the purpose of ascertaining the exact attitude of the Bulgarian authorities with reference to the collection of a supplemental income tax from foreigners engaged in business in Bulgaria, and its effect on American merchants and agents there.

It appears from your dispatch that several of the powers have opposed the collection of this tax for the reason that the capitulations existing under the Turkish régime are still in force in Bulgaria,

¹ Not printed.

and therefore the Bulgarian Government would appear to have no right to enforce the collection of any new taxes upon foreign residents without the consent of their respective governments.

The department approves the representations made by you to the Bulgarian minister for foreign affairs, namely, that American citizens be accorded the same treatment given to other foreigners engaged in business in Bulgaria, and that British consular officers be permitted to continue to act in the interests of American citizens.

The courtesy extended to you by Mr. Lindley, His Britannic Majesty's chargé d'affaires at Sofia, who accompanied you to the foreign office and who on several occasions has interfered to protect American citizens, is greatly appreciated, and the embassy at London has been instructed suitably to express to the foreign office the appreciation felt by this department and to ask that its thanks may be conveyed to Mr. Lindley for his services.

I am, etc.,

P. C. KNOX.

CHILE.

VISIT OF SEÑOR DON PEDRO MONTT, PRESIDENT OF CHILE, TO THE UNITED STATES.

File No. 180/43.

Chargé Pierrepont to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santiago, July 9, 1910.

Mr. Pierrepont reports that executive authority was transferred on this date by the President of Chile to Elias Fernandez Albano as vice president, and says the President will leave on July 14, on the cruiser *Esmeralda*, for Panama.

File No. 180/66.

The Chilean Chargé to the Secretary of State.

[Translation.]

No. 16.]

CHILEAN LEGATION,
Washington, July 16, 1910.

SIR: I have the honor to inform your excellency that I duly conveyed to his excellency the President of Chile the American Government's desire, expressed through the department under your excellency's worthy charge, to show the most excellent Mr. Montt, when he passes through New York, some special attentions compatible with the delicate condition of his health, and I mentioned the satisfaction with which his excellency's acceptance would be received.

I received yesterday a telegram from our diplomatic representative at Panama forwarding to me his excellency the President's instructions, which direct me to express to your excellency and your Government his thanks for the tendered honors, which he is fortunately able to accept by reason of a favorable turn taken by the state of his health.

In voicing the sentiments of his excellency the President, I take the liberty of informing your excellency that the most excellent Mr. Montt will embark at Colon for New York on board the *S. S. Tagus*, of the Royal Mail Line, due at that port on the 6th of August, and will proceed to Europe on the 9th of the same month, at 10 a. m., on board the *Kaiser Wilhelm der Grosse*, of the North German Lloyd.

I have the honor, etc.,

A. YOACHAM.

File No. 180/48 A.

The Acting Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 23, 1910.

President Montt, of Chile, will arrive at Panama on the 25th or 26th instant on board the Chilean warship *Esmeralda*, on his way to

Europe for the benefit of his health. You will cooperate with the authorities of the Canal Zone and exert every effort to make his stay in Panama as agreeable as possible and to facilitate the ease of his transit across the territory of Panama.

WILSON.

File No. 180/49.

Chargé Marsh to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Panama, July 26, 1910.

Mr. Marsh acknowledges department's July 23, and reports the arrival in Panama on July 25 of President Montt, of Chile, on Chilean war vessel *Esmeralda*, and says he was met by the Chilean minister; that he landed at Panama City at 4.30; was received at the presidential palace by President Mendoza, his cabinet, members of the diplomatic corps, and prominent citizens of Panama, and that he was the dinner guest in the evening of the Chilean minister and Chilean residents at Ancon, Canal Zone, later returning on board the *Esmeralda*. Mr. Marsh says, further, that President Montt was received the following day at Balboa, Canal Zone, by Col. Goethals and party, the British minister, and the American chargé, and went by special train across the Isthmus as the guest of Col. Goethals; and after lunching with Col. Goethals and inspecting the canal work, will go to Colon, embarking Wednesday morning on the Royal Mail steamship *Tagus* for New York, via Kingston, reaching New York August 4. Mr. Marsh adds that the services of himself and the American legation were placed at the disposal of the Chilean legation, for which courtesy, he says, President Montt expressed his thanks.

File No. 180/64.

The President of Chile to the Third Assistant Secretary of State.

S. S. KAISER WILHELM DER GROSSE,
Via wireless and Halifax, August 10, 1910.

Repeat to you, Gen. Carter, Capt. Hulse, Mr. Dawson, best thanks
- for your attention and kindness.

PEDRO MONTT.

File No. 180/69.

The Chilean Chargé to the Secretary of State.

[Translation.]

No. 18.]

CHILEAN LEGATION,
Washington, August 11, 1910.

SIR: In compliance with special instructions from His Excellency the President of Chile, I have the honor to transmit herewith to your excellency a letter which the most excellent Mr. Montt handed to me as he was leaving New York for delivery to His Excellency the President of the United States, and to beg that your excellency will kindly forward it to its high destination.

I avail myself of this opportunity, Mr. Secretary, to express to your excellency the cordial thanks of His Excellency the President of Chile for the attentions and honors that were lavished upon him during his stay in this country, and at the same time bear witness to the indefatigable and delicate consideration displayed by the representatives of the American Government, Messrs. Chandler Hale, Thomas C. Dawson, Maj. Gen. William Harding Carter, and Capt. Harry P. Hulse, United States Navy, in waiting on his excellency and suite from the time of their arrival in the United States.

I have, etc.,

A. YOACHAM.

[Inclosure—Translation.]

The President of Chile to President Taft.

NEW YORK, August 9, 1910.

MR. PRESIDENT: It is very gratifying to me to send to your excellency my most cordial acknowledgments of the special courtesies with which your excellency and your excellency's Government have honored me during my stay in the United States.

These attentions will be appreciated in my country as a notable indication of the eminently cordial attitude of the policy of your excellency. I sincerely hope that each day may more firmly cement the friendship of the United States and Chile, and that the progress and prosperity which the United States have acquired through the energy of its sons and the worth of its rulers may continue on an ascending scale.

My wife charges to add to my own her expressions of gratitude, and begging your excellency to convey our salutations to Mrs. Taft, I present to your excellency assurance of my highest consideration.

PEDRO MONTT.

File No. 825.00/69.

The Acting Secretary of State to the Chilean Chargé.

No. 39.]

DEPARTMENT OF STATE,

Washington, August 18, 1910.

SIR: I have the honor to acknowledge the receipt of your No. 18 of the 11th instant, with which you inclose, for transmission to the President of the United States, a letter addressed to him by the President of Chile. You express the thanks of the President of Chile for the courtesies accorded him on the occasion of his visit to the United States.

I have the honor to inform you that the letter of the President of Chile has been forwarded to the President of the United States in accord with your request.

Accept, etc.,

HUNTINGTON WILSON.

DEATH OF SEÑOR DON PEDRO MONTT AND SEÑOR DON ELIAS FERNANDEZ ALBANA, PRESIDENT AND VICE PRESIDENT, RESPECTIVELY, OF CHILE.

File No. 180/77.

The Chilean Chargé to the Secretary of State.

No. 19.]

[Translation.]

CHILEAN LEGATION,

Washington, August 17, 1910.

SIR: With the most profound sorrow I have to discharge the painful duty of informing your excellency that I have this day received from my Government a telegraphic communication announcing to me the

very lamentable demise of His Excellency the President of Chile, Señor Don Pedro Montt, which occurred yesterday at the port of Bremen, Germany, and was caused by heart trouble.

I have, etc.,

A. YOACHAM.

File No. 180/71 A.

President Taft to the Vice President of Chile.

[Telegram.]

THE WHITE HOUSE,
Washington, August 17, 1910.

My grief at the death of His Excellency President Montt is especially poignant, because I so recently had the good fortune to know him and the opportunity to appreciate his high qualities as statesman and patriot. I send to you and to the Government and people of Chile the deep sympathy of the Government and people of the United States and my own sincere condolences in the national loss sustained by your country.

Pray yourself accept, Mr. Vice President, the expression of my personal sympathy and high regard.

WM. H. TAFT.

File No. 180/71 B.

The Secretary of State to Madam Montt.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 17, 1910.

I am deeply shocked to learn of the death of President Montt. His loss will be felt by all America. I beg that you will accept my heartfelt sympathy in your great sorrow.

PHILANDER C. KNOX.

File No. 180/71 E.

The Acting Secretary of State to Chargé Pierrepont.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 17, 1910.

The President has sent the Vice President of Chile the following telegram:¹

You will supplement this by appropriately communicating to the foreign office the condolences of this Government and especially of the Secretary of State.

The President has directed that the flags on all Government buildings in the District of Columbia be half-masted for three days, which is without precedent at this capital. Messages also have been sent to Mrs. Montt through the embassy at Berlin and the consul at Bremen.

WILSON.

¹ Supra.

File No. 825.001/8.

Minister Fox to the Secretary of State.

No. 734.]

AMERICAN LEGATION,
Quito, August 20, 1910.

SIR: I have the honor to inform the department that the Chilean minister officially notified me of the death of President Montt. I inclose copy of my reply to him. The Ecuadorian Government decreed a period of official mourning of three days. The flag was displayed at half-staff over this legation during this time.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure.]

*Minister Fox to the Chilean Minister at Quito.*AMERICAN LEGATION,
Quito, August 18, 1910.

MY DEAR COLLEAGUE: I learned with great regret from your letter of August 17 of the death of President Montt. In extending to your country and to yourself my sincerest sympathy permit me to state that it is my mournful pleasure to display the flag of my country at half-mast over this legation in honor of the distinguished statesman whose deeds illuminate one of the brightest pages of the history of Chile.

Believe me, etc.,

WILLIAMS C. FOX.

File No. 825.00/77.

The Acting Secretary of State to the Chilean Chargé.

No. 40.]

DEPARTMENT OF STATE,
Washington, August 25, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, conveying the sad intelligence, which has been received with sorrow, that the President of Chile, Señor Don Pedro Montt, died at Bremen, Germany, on the preceding day.

The grief of the Government and people of the United States, which would have been profound in any event, is intensified by the personal knowledge of President Montt's high abilities and amiable qualities, which they obtained during his recent visit to this country.

Accept, etc.,

HUNTINGTON WILSON.

File No. 825.001.

Chargé Pierrepont to the Secretary of State.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santiago, September 6, 1910.

Mr. Pierrepont states that after a short illness the Vice President of the Republic of Chile, Senor Fernandez Albano, died this day.

File No. 825.001/7.

The Chilean Chargé to the Secretary of State.

No. 20.]

[Translation.]

CHILEAN LEGATION,
Washington, September 7, 1910.

SIR: With the greatest sorrow I discharge the duty of announcing to your excellency that I have received a telegraphic communication

from my Government apprising me of the death, which occurred yesterday at 2.15 p. m., of the Most Excellent Vice President of Chile Señor Don Elias Fernandez Albano, and that, under the provisions of our constitution, the Chief Magistracy has been assumed by the senior member of the cabinet, the Most Excellent Señor Emiliano Figueroa, minister of justice and public instruction.

A. YOACHAM.

File No. 825.001/1 A.

President Taft to the Vice President of Chile.

[Telegram.]

THE WHITE HOUSE,
Washington, September 7, 1910.

I deeply regret to learn of the death of His Excellency Vice President Albano. I send to you and to the Government and people of Chile the deep sympathy of the Government and people of the United States of America and my own sincere condolences in the national loss sustained by your country.

Pray accept for yourself the expression of my personal sympathy and high regard.

WM. H. TAFT.

File No. 825.001/1 B.

The Acting Secretary of State to Chargé Pierrepont.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 7, 1910.

Mr. Wilson informs Mr. Pierrepont that the above telegram has been sent to the Vice President of Chile, and directs him to supplement that telegram by an appropriate communication to the foreign office conveying the condolences of the Government of the United States, and especially of the Secretary of State.

File No. 825.001/2.

The Vice President of Chile to President Taft.

[Telegram.—Translation.]

SANTIAGO, September 8, 1910.

The Government and people of Chile will take grateful knowledge of the telegram in which your excellency deigns to transmit the condolence of the United States in our latest affliction.

Accept, excellency, my personal gratitude and the sentiments of my highest and most distinguished consideration.

EMILIANO FIGUEROA.

File No. 825.001/7.

The Acting Secretary of State to the Chilean Chargé.

No. 41.]

DEPARTMENT OF STATE,
Washington, September 10, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in which you announce that you have received telegraphic information from your Government advising you of the death at 2.15 p. m., on the 6th instant, of His Excellency the Vice President of Chile, Señor Don Elias Fernandez Albano, and that, in conformity

with the provision of the constitution of the Republic, the minister of justice and public instruction, His Excellency Señor Emiliano Figueroa, as the senior member of the cabinet, had assumed the executive power.

In receiving information of the death of His Excellency Vice President Albano, the President, on the 7th instant, telegraphed to Señor Figueroa, Vice President of Chile, the expression of the deep sympathy of the Government and people of the United States and his own sincere condolence in the great loss sustained by the Republic of Chile. In the same telegram the President also expressed to his Excellency Señor Figueroa his personal sympathy and high regard. On the same day the department directed the American legation at Santiago to supplement the President's telegram by communicating to the foreign office the condolences of this Government and especially those of the Secretary of State.

I now desire to convey to you, Mr. Chargé d'Affaires, the expression of my sincere regret at the death of Señor Albano and my sympathy in view of the loss sustained by your Government and people.

Accept, etc.,

HUNTINGTON WILSON.

DEATH OF SEÑOR ANIBAL CRUZ, CHILEAN MINISTER TO THE UNITED STATES.

File No. 701.2511/63.

The Chilean Chargé to the Secretary of State.

[Translation.]

CHILEAN LEGATION,
Washington, December 18, 1910.

SIR: It is my extremely sad duty to notify your excellency of the death this morning of the head of this legation, his excellency Mr. Anibal Cruz, caused by a sudden attack of heart failure.

In communicating this sad news to your excellency, I have, etc.

A. YOACHAM.

File No. 701.2511/56.

The Secretary of State to the Chilean Chargé.

DEPARTMENT OF STATE,
Washington, December 24, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: I beg to notify you that the battleship *Delaware* has been detailed as the vessel of the United States to convey to Chile the remains of the late Minister Anibal Cruz.

I am, etc.,

P. C. KNOX.

File No. 701.2511/67 A.

The Secretary of State to Minister Fletcher.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 23, 1911.

The body of the late Minister Cruz will leave Hampton Roads the 31st instant, on the battleship *Delaware*, arriving at Valparaiso on

March 15. You will meet the body at Valparaiso with the entire legation staff.

The department is informed that Madame Cruz will reach Valparaiso about the 30th instant, and desires that she be met at the port by a legation representative.

KNOX.

File No. 701.2511/73.

Members of the commission appointed to accompany remains of late Chilean Minister to the Secretary of State.

[Translation.]

WASHINGTON, February 1, 1911.

MOST EXCELLENT SIR: The undersigned, members of the commission appointed to accompany the remains of Señor Don Anibal Cruz, minister of Chile at Washington, present their respects to your excellency and have the honor to inform you that they have fulfilled the mission with which they were intrusted on that very sad occasion.

They further desire to express to your excellency their high appreciation of the honors paid by the Army and Navy of the United States to the memory of their late distinguished colleague, and to say that they duly acknowledge the attentions they received during the time occupied in the fulfillment of their mission at the hands of Assistant Secretary Hale, who represented the Department of State, and of the captain and officers of the *Mayflower*, which took them to Hampton Roads.

Your excellency's most obedient servants,

J. B. CALVO.
LUIS LAZO, A.
P. EZEQUIEL ROJAS.
IGNACIO CALDERON.

File No. 701.2511/73.

The Secretary of State to the members of the commission appointed to accompany the remains of late Chilean minister.

DEPARTMENT OF STATE,
Washington, February 9, 1911.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 1st instant, expressing the high appreciation of the commission of the honors paid by the Army and Navy of the United States to the memory of your late distinguished colleague of the diplomatic corps, Mr. Anibal Cruz, of the attention received by you from Mr. Chandler Hale, Third Assistant Secretary of State, and the officers of the *Mayflower*, on which the remains were conveyed to Hampton Roads.

It has afforded me pleasure to bring your note to the knowledge of Mr. Hale, to communicate a copy of it to the Secretary of the Navy in order that your courteous expressions may be made known to the commanding officer of the *Mayflower*.

Accept, etc.,

P. C. KNOX.

ARBITRATION OF THE CLAIM OF ALSOP & CO., AN AMERICAN CORPORATION, V. CHILE.

The Secretary of State to Minister Hicks.

No. 60.]

DEPARTMENT OF STATE,
Washington, D. C., April 30, 1907.

SIR: The department is earnestly desirous that you take up once more with the Chilean Government a matter which has been outstanding for a considerable period of years, and to recommend to the well-known sense of that Government a claim the circumstances of which have appealed strongly to the department and toward which it has very great sympathy and concern. The reference is to the Alsop claim.

The object of this communication is to lay certain pertinent facts which are believed to be controlling before the Chilean Government, and to obtain from it, in the light of fairness and justice, the best offer of settlement which commends itself to Chile as just and right. With this end in view, you are instructed to present the matter to the Chilean minister of foreign affairs and express the hope and belief of this department that the claim may have the just and even generous consideration of the Chilean Government which it has been led to expect from the favorable assurances heretofore given by Chile in this regard.

It will be remembered that as far back as 1872 an obligation existed on the part of Bolivia to pay to Don Pedro Lopez Guma (to whom the claimants advanced large sums of money and of whom they became assignees in 1875) the value of 200,000 tons of guano. In virtue of the compromise authorized by the Bolivian law of November 22, 1872, it was agreed in cabinet council on December 21, 1872, to recognize the claimant's right to the value of 150,000 tons at the rate of 7 pesos and 2 reales per ton, equivalent to 1,087,500 pesos. A later cabinet resolution of December 18, 1875, recognized the principal sum of 870,000 bolivianos, which seems to have been equivalent to 1,087,500 pesos, as the amount due, with interest at 8 per cent. These resolutions likewise contained provisions for the manner in which the debt was to be paid. The subsequent cabinet resolutions of January 22 and February 7, 1876, confirmed the amount of the principal sum due. Finally, a definitive settlement was reached which is set forth in the supreme decree of December 24, 1876, ratified December 26, 1876, by John Wheelwright, liquidator of the firm of Alsop & Co., and confirmed by the decree of the National Bolivian Congress February 12, 1878. By the terms of this settlement the principal sum was reduced from 870,000 bolivianos to 835,000 bolivianos; the sum of 230,000 bolivianos was allowed for unpaid interest; and the interest upon the new principal sum was reduced from 8 per cent to 5 per cent. Special provision was made for the payment of the interest account, and a considerable percentage thereof was paid.

For the payment of the principal sum of 835,000 bolivianos (the Bolivian silver dollar then being worth 96½ cents) two kinds of security were given: (1) A charge was created upon the custom-house at Arica, in which Bolivia then had an interest; and (2) a

share was granted in the rich Government mines of Caracoles along the Bolivian littoral. The precise nature of these charges it is perhaps not necessary to discuss, but the important fact is that after the war between Chile and Peru and Bolivia in 1879 and 1880, the territory which had been charged with the payment of these obligations passed into the hands of Chile; and the claimants, deprived of their security, have never been able to recover their debt.

It is not proposed to consider at present the broad question as to whether territory acquired by conquest is acquired cum onere—indeed, such a discussion is quite unnecessary in view of Chile's action in this case, for in the negotiations prior to the definitive treaty of peace between Chile and Bolivia the question of the charges upon the Bolivian littoral which passed to Chile was fully considered, and it was finally agreed that Chile should assume and satisfy them. It is understood that the delay in the conclusion of the treaty was for years made by Chile the reason for withholding action in favor of the claimants, and meanwhile many assurances were given that eventually their interests would be justly provided for. It has been the confident reliance upon these expectations which has led the department to hope that in the final consideration of the matter full justice would be done, and though disappointed until now, it still has strong grounds for believing that the Chilean sense of fair play will assert itself in a satisfactory settlement of the claim of Alsop & Co.

It will be recalled that as far back as 1891 a preliminary engagement was signed looking to the payment of this claim, for in the preliminary protocol of a treaty of peace between Bolivia and Chile, signed May 9, 1891, known as the Matta-Reyes protocol, in which the definitive transfer of the Bolivian littoral to Chile was provided for, Chile agreed to assume the Bolivian foreign debt, including the credit in favor of Alsop & Co., to the amount of \$850,000 with interest; and although the treaty was not perfected, the Chilean minister for foreign affairs stated to the American minister the following year, June 18, 1892, that the Alsop claim amounting to \$835,000, as of December 26, 1876, had been mentioned in the protocol as "among the liabilities that the Government of Chile engaged to pay for account of Bolivia." The correspondence of this period, and of the few succeeding years, between our diplomatic representatives at Santiago and the Chilean minister of foreign affairs, to which you are referred for fuller information, will show the considerate forbearance with which the legation refrained from any action on behalf of American claimants which would in any way tend further to embarrass Chile at a time when, in addition to her domestic troubles, other foreign countries were pressing her for satisfaction of their demands. Again in 1895, when the treaty of peace and friendship was signed on May 18, it was provided that Chile should be bound to pay, in a manner subsequently to be agreed upon, the debts which encumbered the Bolivian littoral, among them being "the credit of Don Pedro Lopez Gama, now represented by the firm of Alsop & Co., of Valparaiso." The proposed treaty, however, appears to have failed of ratification.

In 1900 the claim was again taken up by the Chilean minister at La Paz, who had proposed to the Bolivian Government the bases for a definitive treaty of peace. The Alsop claim was described as

one of those "affecting the Bolivian littoral," and a stipulation was included for its settlement similar to that contained in the unperfected treaty of May 18, 1895.

The claim was presented to the United States and Chilean Claims Commission in 1901 and dismissed by that commission for want of jurisdiction. The Chilean agent, in support of his motion to dismiss the claim, stated:

It (the claim of Alsop & Co.) is among the liabilities that the Government of Chile engaged to pay for the account of Bolivia. This explains exactly the situation of the claim. The Chilean Government has always regarded it and does still regard it as a liability on the part of Bolivia toward the claimant, and in order to induce the Bolivian Government to sign the definitive treaty of peace which has been negotiated for many years, the Chilean Government offers to meet this and other claims as part of the payment or consideration which it offers to Bolivia for the signature of the treaty. This has always been the position of the Chilean Government and is its position to-day, and if Bolivia signs the treaty the claim of Alsop & Co., as well as the other claims mentioned, will be promptly paid under the treaty engagement as a relief to Bolivia from the liabilities which that Government has incurred and for the account of Bolivia.

"The claimant is therefore," said the commissioners in their decision, "remitted for relief to the Government of Chile, whose assurances are thus given, and the case is dismissed."

The claim was again brought by the department to the attention of the Chilean Government through our minister at Santiago during 1903. On December 4 of that year the department received from its minister at Santiago a telegram in which he stated that the Chilean minister of foreign affairs wished to know if an offer would be accepted in settlement of the claim of 954,285 Chilean dollars of 18 pence, and that in case the claimants declined this offer the sum in Chilean bonds would be paid to Bolivia, who would assume responsibility and settle with the claimants. The department telegraphed in reply that the Alsop claimants declined the offer as inadequate, and that the department was unable to recommend its acceptance. It may be stated with regard to the refusal of Chile's proposition that, irrespective of the enormous depreciation in the value of the coin in which the original indebtedness should have been paid, the offer of December 4, 1903, was less than one-half of the amount to which the claimants were entitled under their agreement of December 26, 1876, with the Bolivian Government.

In view of the disposition of the claim that was afterward made by Chile, it would seem that that Government's intention as expressed in the telegram of December 4, 1903 to convert her offer of \$954,285 into Chilean bonds and turn them over to the Bolivian Government in case of the refusal by the claimants of her offer of cash payment, was never carried into effect.

Not many months after the correspondence by cable in December, 1903, the department received from Minister Wilson a cablegram to the effect that the definitive treaty of peace between Chile and Bolivia would surely be concluded in the course of a few months, and that the Chilean Government would then take up the Alsop claim and give it particular and generous consideration. The department accordingly awaited the action of the Chilean Government with much expectancy. Its disappointment was not little, therefore, when, after the conclusion of the treaty, it was found that the provision for the payment of the Alsop claim would amount to only 525,332 Chilean pesos. Notwithstanding the early negotiations from 1891 to 1900 looking to

the conclusion of the treaty of peace, the assurances of payment given by the Chilean agent, to the United States and Chilean Claims Commission in 1901, the reliance by the commissioners upon these assurances, which are quoted by them in their judgment dismissing the claim, and the promise of "particular and generous consideration" given by the Chilean minister of foreign affairs to Minister Wilson in the summer of 1904, the arrangement made by the treaty contemplated a settlement with the claimants at a little more than half of the amount previously offered through Minister Wilson by cable of December 4, 1903 to the Secretary of State. The department, therefore, in a note of January 10, 1905, informed the Chilean minister at Washington that the amount appeared to be "entirely inadequate to the just satisfaction of the claim, and not in correspondence with the previous assurances given by the Chilean minister of foreign affairs to the United States minister at Santiago that the Alsop claim should receive just and even generous treatment." The department in conclusion stated that it would be pleased, in view of the foregoing, to receive a further offer from Chile corresponding to the expectations raised by its assurances and by the equity of the claimants.

There has recently been brought to the attention of the department the fact that, in addition to article 5 of the treaty of October 20, 1904, providing for the assumption by Chile of the claim of Alsop & Co. and others, and the appropriation of the sum of 2,000,000 Chilean dollars in liquidation of these debts, further memoranda were exchanged between the representatives of the two Governments on the day after the signature of the treaty defining the extent of the responsibility which was laid upon Chile by the assumption of these credits. The Bolivian plenipotentiary inquired whether the purport of the article was to eliminate entirely Bolivia's liability in the premises, and he requested that the Chilean plenipotentiary state on behalf of his Government whether such was the purport to be given to that article of the treaty.

The Bolivian representative expressed his Government's understanding of the agreement as follows:

It has been agreed that the Government of Chile shall permanently cancel all of them, so that Bolivia shall be relieved of all liability, the Government of Chile being obligated to answer every subsequent claim presented either by private means or through diplomatic channels, and considering itself liable for every obligation, bond, or document of the Government of Bolivia relating to any of the claims enumerated, Bolivia's liability being entirely eliminated for all time and the Government of Chile assuming all liabilities to their full extent.

The Chilean plenipotentiary replied as follows:

My Government considers that the obligation which Chile contracts by article 5 of the said treaty comprises that of arranging directly for the permanent cancellation of each of the claims mentioned in said article, thus relieving Bolivia of all subsequent liabilities.

It is consequently understood that Chile, as assignee of all the obligations and rights which might be incumbent on or appurtenant to Bolivia in connection with those claims shall answer any reclamation which may be presented to your excellency's Government by any of the parties interested in the said claims.

The department considers that this language contains ample justification for the ground that, as between Chile and Bolivia, the latter country is relieved of entire responsibility for the payment of

the claim of Alsop & Co. in the full amount that may have been due. It does not feel that the offer made in pursuance of the treaty in which their claims are disposed of at a fraction of their original value is a satisfactory settlement of the matter, and it would urge upon that Government, in consideration of all the equities involved, again to submit an offer of settlement.

It must be stated, however, that while as between Chile and Bolivia the former is bound to pay whatever the latter owes to the claimants, the department does not understand that this obligation of Chile to Bolivia, if unsatisfied by Chile, will operate to release Bolivia from her obligation to the claimants concerning unpaid balance of the debt.

It would seem that the various agreements entered into between the two Governments supplementary to and in explanation of the treaty of October 20, 1904, had a peculiarly unfortunate effect upon the interests of the Alsop claimants. It will be recalled that article 5 of the treaty providing for the assumption of the Alsop and certain other debts, which was a part of the consideration moving from Chile in return for the cession of Bolivia's coast line, appropriated only \$2,000,000 to the payment of these debts, whereas it was well known that their face value without interest was \$3,185,000.

Some disappointment arising on account of this apparently unjustifiable reduction, the plenipotentiaries on November 15 following signed a protocol which was made public, stating the mutual understanding of the parties as to the meaning of article 5 of the treaty. This understanding, as embodied in the protocol, was that Chile had the right under article 5 of the treaty to reduce the amount of the claims as she might deem proper. The immediate effect of this action upon the claimants whose rights were to be satisfied was to make them feel that they were in the power of the Chilean Government and that they might better take what was offered them than stand out for their rights. It was a prospect full of discouragement to those who had been waiting so long to have justice done them. It did not come to their knowledge or to the knowledge of the department until a comparatively recent date that there had been a further and prior unpublished agreement for a complete assumption of the claims by Chile.

Another consideration which should not be overlooked in the contingency of an inadequate offer of settlement on Chile's part is the fact that while, as between Chile and Bolivia, the former is bound to pay whatever the latter owes to the claimants, the department does not understand that this obligation of Chile to Bolivia, if unsatisfied by Chile, will operate to release Bolivia from her obligation to the claimants with respect to the unpaid balance of the debt, if the amount accepted can not justly be regarded as a satisfaction of the entire claim. The latter view has already been brought to the attention of the Bolivian Government by the American minister at La Paz, and a copy of this instruction will also be sent to him for his information and guidance as to his future attitude toward the claim.

The phases of the case have been so various that much time has necessarily been consumed by the department in their examination—hence the delay in sending this instruction—and meanwhile

the claimants have been patiently waiting for a conclusion to be reached. No attempt is made herein to review the claim from its many standpoints, but it is submitted that enough is set forth to appeal to the high sense of justice of Chile, and in this sense you are directed to lay the matter before the Chilean Government, and to leave with the minister of foreign affairs a copy of this instruction.

I am, etc.,

E. Root.

Chargé Janes to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santiago, August 1, 1907.

The minister for foreign relations authorizes me to say that the obligation of the Chilean Government toward Alsop & Co. is limited by article 5 of the treaty with the Bolivian Government. An offer is made of 568,192.67 Chilean pesos in gold, which amount is retained in the treasury by judicial order pending the decision designating real claimant, at which time the sum will be paid upon the express condition that acknowledgment of the full amount of the claim be made by claimant, thus canceling the indebtedness of both the Government of Chile and that of Bolivia.

JANES.

Chargé Janes to the Secretary of State.

No. 163.]

AMERICAN LEGATION,
Santiago, August 5, 1907.

SIR: In accordance with the instructions of the department, numbered 60 and dated April 30, 1907, the Alsop claim has again been presented to the Chilean Government.

On the 27th of June last a copy of the above instructions was delivered by me personally into the hands of the Chilean minister of foreign affairs.

Since that time I made several inquiries at the foreign office as to the progress of the matter. After the delay of the translation had been overcome, the claim was placed in the hands of the solicitor of the department who was obliged to undertake an unexpected journey to the north in response to a telegram announcing the dangerous illness of a parent. During the absence of this official I was told at the foreign office that the minister desired further to submit the legation note to the President before taking the matter up with me. After more than a month had elapsed since the transmittal of the legation note, I obtained an interview with Señor Puga Borne on the subject in hand, who treated me most courteously and discussed the matter in the most friendly spirit.

The minister stated that Chile considered her obligations in the matter of the Alsop claim reduced to the narrow limits fixed by Article V of the treaty with Bolivia of October 20, 1904. Chile there promised Bolivia to pay certain debts which had been con-

tracted by Bolivia and which at the time were Bolivia's own. Chile, the minister declares, bound herself only for a certain sum and as to certain specified claims. At the same time, Chile reserved to herself the right to examine the claims and to place upon them a value according to her best judgment; she may reconsider them at initio, lay aside all acknowledgments of indebtedness made in the past by Bolivia, and obtain whatever terms she can from the creditors.

At this point a curious situation presents itself. Though Chile asserts she has not assumed in toto the debts that the claims enumerated import, having bound herself only in a certain sum, yet the treaty does not permit a partial payment of these claims. The Governments of Chile and Bolivia carried on a correspondence which had the object of making this clear. This correspondence was made public against the will and without the consent of the parties concerned. These notes of the foreign offices aimed to emphasize the phrase in the treaty "*cancelacion definitiva*" (full payment), and Mr. Puga Borne states that Chile promises Bolivia there that she will not pay a centavo of the 2,000,000 pesos unless the creditors relinquish all their rights, so that not only the indebtedness of Chile under the treaty but the original indebtedness of Bolivia as well will be completely wiped out and the creditors stopped from further proceedings on the debt.

Bolivia clearly feared that the creditors after accepting whatever amounts the treaty allowed them would then turn to that country and demand the difference of what Bolivia previously had acknowledged as a just debt. Mr. Puga Borne declares that the creditors must accept the treaty allowance as fully satisfying all demands.

The minister was asked if it did not appear worthy of remark that Chile should now offer as just compensation some 500,000 pesos, when only a few years ago over 800,000 pesos had been tendered without acceptance to the same parties in payment of the same debt. Just how the difference in the equitable valuations at the two distinct periods has crept in was hard to understand. This point the minister said he was not ready to discuss.

As the Alsop debt as it had been acknowledged by Bolivia was far in excess of 2,000,000 pesos, the minister was told it appeared that a pro rata division of such a sum among several claimants could hardly be considered a method growing out of a just appreciation of their separate merits. Mr. Puga Borne said that the sum stipulated did not measure merely the amount Chile was willing to advance for certain rights and privileges given her by Bolivia. This sum, he said, has been fixed for the satisfaction of the claims after a study of each one of these claims had been made. Then it was decided to provide for the pro rata division because it was discovered that the real value of the claim bore a fixed relation to the face value of the claim, which relation was equivalent to that borne by the 2,000,000 pesos to the sum total of the face value of the claims. Therefore the sum which fell to Alsop & Co. in satisfaction of their claim was believed by Chile to be the amount to which the claimant was entitled according to the dictates of justice.

On the day following this interview I visited Mr. Puga Borne again and showed him the telegram which I was about to send to you, containing the terms of the offer Chile was ready to make the

Alsop claimants. The telegram as approved by the minister is as follows:¹

In the meanwhile the foreign office is still engaged in the study of the antecedents of the claim.

The minister states that the amount above given constitutes the final offer of Chile. If the claimants are unwilling to accept it in full satisfaction they are invited to turn for payment to Bolivia.

I have tried to give all the details of the interview with Mr. Puga Borne, in order that the case in its present status may be seen from the standpoint of the Chilean Government.

I have, etc.,

HENRY L. JANES.

Minister Hicks to the Secretary of State.

AMERICAN LEGATION,
Santiago, November 11, 1907.

SIR: I find on my return to the legation that the subject of the Alsop claim has been revived, and that in my absence department's dispatch No. 60, dated April 30, 1907, was received bearing instructions to take it up once more with the Chilean Government and attempt to have it finally settled.

Again, on June 26 of this year, department cabled to this legation: "Cable any offer of settlement that may be made by Chile."

Acting on this suggestion, Mr. Janes, the chargé d'affaires, waited on the minister of foreign affairs several times, trying to get from him some proposition looking to a settlement of the long-standing account.

At length, on August 1, as detailed in Mr. Janes's dispatch No. 163, dated August 5, the minister of foreign affairs authorized an offer of \$568,192.67 (Chilean gold pesos).

On October 29 I received department's unnumbered dispatch, dated September 19, confirming department's alleged telegram of September 12,² notifying me that claimants declined to accept the sum tendered by Chile. No such telegram was ever received at this legation or in the Santiago office of the cable company, but I immediately notified department of the fact by cable, dated October 31, and added that I would at once act upon the instructions in the dispatch.

Accordingly, on the 2d instant I sent to the foreign office a note informing the minister that the proposition could not be accepted, and asking him for a reply to Mr. Janes's communication of June 27, which up to that time had been answered only by an impersonal note simply acknowledging its receipt.

I have another matter of some importance to communicate to the department. The minister for foreign affairs informed me to-day that in the special report from the director of the treasury notifying him of the exact amount on hand to settle the Alsop claim a slight mistake was made. As I understood him, certain items of accrued interest had been omitted and the net amount on hand to pay the claim of Alsop & Co., instead of \$568,192.67 (Chilean gold pesos), was \$589,870.30 (Chilean gold pesos at 18 pence). I inquired again when

¹Supra, Aug. 1.

²Not printed.

this amount could be paid, and the minister replied that the sum could be paid at once if the garnishee suit of Juana Lopez Gama was settled.

I would suggest that action be taken on this matter as quickly as possible, in order that, if anything is to be done, it shall be done quickly. A change of administration might seriously interfere with the arrangements and indefinitely postpone any action.

Your obedient servant,

JOHN HICKS.

The Chilean Chargé to the Secretary of State.

No. 122.]

[Translation.]

CHILEAN LEGATION,
Washington, July 31, 1908.

SIR: I have the honor to inform your excellency that I have received instructions from my Government to transmit to your excellency a copy of a note which the minister of foreign relations of Chile addressed to Minister Hicks on April 9 of this year regarding the claim of Alsop & Co.

The honorable Mr. Hicks, in acknowledging the receipt of that communication, stated that it appears to him to be a document of much force and that he does not doubt it will receive your kind and careful attention.

The Government of Chile, on its part, being convinced of the justice of its cause and of the lofty and upright judgment of the State Department of the United States, is particularly desirous that his excellency the Secretary of State should become acquainted with this communication, which examines and analyzes the claim which the firm of Alsop & Co. presented some years ago.

It is also my duty to inform your excellency, in pursuance to instructions received, that this legation is only authorized to furnish to the State Department, if your excellency should deem desirable, antecedents and information regarding this case, the negotiations regarding which have been and are still being conducted in Santiago.

While inclosing to your excellency herewith the note to which I referred, I have the honor to renew to your excellency the assurance of my most distinguished consideration.

A. YOACHAM.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Minister Hicks.

No. 636.]

REPUBLIC OF CHILE,
MINISTRY OF FOREIGN RELATIONS,
Santiago, April 9, 1908.

MR. MINISTER: Toward the end of July of last year the chargé d'affaires ad interim of the United States Legation held an interview with me and placed in my hands a note dated June 27, in which he stated that the State Department had given him urgent instructions to resume negotiations with the Chilean Government and commend to its well known sentiment of justice a case which has been pending for many years and the circumstances of which have appealed forcibly to the mind of his Government, just as it has enlisted great sympathy and interest on the part of the Chilean Government, namely, the Alsop claim.

He afterwards transmitted a copy of the instructions received by the legation from the State Department in regard to this matter.

In these instructions it is stated that "the object of this communication is to set forth to the Chilean Government certain pertinent facts which are believed to be decisive, and to obtain from it, in consideration of good faith and justice, the best offer of a settlement that suggests itself to Chile as just and right."

These instructions end with the declaration that "the department does not understand that this obligation of Chile toward Bolivia, in case it is not satisfied by Chile, shall have the effect of relieving Bolivia from her obligation toward the claimants with regard to the settlement of the debt (which is still unmade), provided the amount accepted can not be regarded as a settlement of the entire claim."

Accompanying the note of the chargé d'affaires was an account and itemized statement of the Alsop claim, as it was presented before the tribunal at Washington in 1900, the total amount of the claim being \$2,565,246.15 in money of the United States.

During the course of the aforesaid interview, and being hardly acquainted with the subject, I had the honor to state to the chargé d'affaires that, in compliance with the obligations contracted in the treaty of peace with Bolivia, the Chilean Government was willing to pay the amount which belonged to Alsop & Co. according to Article V; that this sum would be paid by means of the bonds issued especially for this purpose, to which would be added the amount of the coupons due, which would be paid in gold; that the payment would be made in consideration of the total cancellation of the debt; and I added that, for the time being, this sum was being retained by an order of the court issued at the request of the daughter of Bolivia's original creditor, Mr. Lopez Gama.

The chargé d'affaires told me that he desired to communicate this reply immediately, and I offered to visé the cablegram which he would send to the State Department communicating the reply. I did this. The cablegram, dated August 1, 1907, reads as follows:

The ministry of foreign relations authorizes the following information: Chile maintains that her obligation with regard to the claim of Alsop & Co. is limited by Article V of the treaty with Bolivia, and offers 568,192.57 pesos Chilean gold, but the payment will be made only on condition that the claimant acknowledge the payment of the claim in full, so that the debt of Bolivia as well as that of Chile will be canceled. This sum is being retained in the Government treasury by judicial order pending a settlement of the contending claims between the parties.

On November 2 your excellency saw fit to come to the ministry of foreign relations and inform me by instructions from your Government that the amount offered in settlement of the Alsop claim could not be accepted.

You also call attention to this in a note of the same date, in which you furthermore pointed to the circumstances that your legation had received no answer to the note of Mr. Janes of June 27, with the exception of an impersonal acknowledgment of receipt.

On the 9th and 12th of November your excellency came to the ministry of foreign relations to renew your recommendation in favor of the Alsop heirs and to ask certain information as to the manner in which Chile was willing to satisfy them.

In the last of these conferences I had the honor to state that, taking into account the proceeds of the coupons accrued on the bonds from December 10, 1905, up to the same day of the present year, the total amount available for this purpose on the latter date would be 589,870.30 pesos of 18 pence each in bonds and in gold.

I also furnished your excellency with a copy of the document and decree relating to the judicial retention which had been ordered.

On November 19 your excellency sent to the department another communication which appeared to be intended for an acknowledgment of receipt of the copies delivered, but which did not enter into any other consideration in regard to which I took the liberty to ask you to hold another interview.

This interview took place on the 23d. In it I expressed to your excellency the keen regret which I had felt at your last note, which could not be received without explanations, among other reasons because it appeared to change the character of the intervention of the United States Government in behalf of the Alsop heirs, which had hitherto been in the nature of a mere exercise of good offices, and seemed to desire to convert it into a diplomatic claim, although it was clearly set forth in a note of this department that the intervention had only been accepted in the former form; and besides, because it is not permissible for a foreign representative to suggest the administrative procedure through which the department shall put a case submitted to its examination, and much less is it permissible that he shall suggest the course to be followed in a lawsuit pending before the courts.

I added, still in the most kindly and conciliatory terms, that it was incomprehensible why the Alsop heirs were so anxious to have the distraint removed which had been placed by the court on the bonds intended for them, while at the very same time they had refused to accept them in payment of their claim, and I observed that their complaint against the attitude assumed by the Chilean Government with respect to the action begun by Mrs. Juana Lopez Gama was very unjust, when precisely that which

the representative of the Government before the courts is the incompetency of ordinary justice to take cognizance of the complaint.

Your excellency saw fit to assure me that your insinuations, which were made in the best intention—viz, that of facilitating the settlement of the Alsop question—were directed solely toward this end, but that if any of these considerations were considered out of the way or objectionable, you had no objection to withdrawing them, and you offered to make a statement to this effect in a new note.

Your excellency then sent to this department your note of November 25, the courtesy of which I can not help acknowledging on this occasion and thanking you for it.

The undersigned, acting on the assumption that the steps taken by the United States Government in behalf of Alsop were merely in the nature of an exercise of good offices, thought that the oral reply given to Mr. Janes satisfied the petition contained in his note of June 27, but the incidents which have occurred subsequently, and which I have just pointed out, make it advisable, on the contrary, to adopt the course of explaining to your excellency in full the opinion which this department entertains of the question.

I have had to acquaint myself thoroughly with the whole history of the case and with the numerous ramifications which characterize and complicate it. Your excellency will permit me to summarize them herein below as briefly as possible.

In 1875 Mr. Pedro Lopez Gama, a creditor of the Bolivian Government by virtue of contracts made with him for the exploitation and exportation of the guano existing on the coast of said Republic, transferred his rights to the business firm of Alsop & Co., of Valparaiso.

This firm was a civil corporation *in commendam*, organized and registered in the said city in 1870, having three active members of North American nationality, two of them residing in Valparaiso and the other in the United States, and seven silent partners, who are also citizens of the United States residing in this country.

The war of the Pacific came on, and the regions in Peru and Bolivia in which was situated the property whose product constituted the security for this loan (claim) having been occupied by the Chilean arms, the liquidators of Alsop & Co. thought that Chile was responsible to them for its settlement. For this purpose they went before the court of arbitration, which sat at Washington in 1894, and which, by virtue of the convention between Chile and North America of August 7, 1892, was to decide all claims made by the citizens of the two countries against the Government of the other. This court declared that it could not pass on this claim owing to lack of time.

During the following year, 1895, my Government arranged the treaty of peace with Bolivia, which was not ratified. In article 2 of this treaty Chile undertook the obligation to satisfy some of the debts which encumbered the Bolivian coast region, among them being included "the debt due Mr. Pedro Lopez Gama, represented at present by the firm of Alsop & Co., of Valparaiso." It was afterwards agreed that these claims or debts should form the subject of a special settlement and be specified in detail in a supplementary protocol.

Before submitting this treaty to the approval of the National Congress my Government decided to inquire of the representative of Alsop & Co. under what conditions he would be willing to cancel the claim. For this purpose it sent the necessary instructions to its minister at Washington, stating to him that the approval of the treaty would be hastened if the aforesaid firm would reduce its demands to proportions which would be acceptable.

The Chilean minister held several interviews with the representative of the claim, after which he communicated to this department that Alsop & Co. demanded in settlement only the payment of the principal due, which amounted to \$360,000 American gold. My Government declined this proposition.

By virtue of the agreement of May 24, 1897, a second court of arbitration convened at Washington in 1900 for the purpose of considering the claims which the first court had not reached. The Alsop claim was presented to this court.

The agent of Chile alleged the incompetency of the court to consider the claim, by reason of the fact that the partnership of Alsop & Co. was a Chilean corporation (legal entity), because it had its domicile at Valparaiso and was recorded on the commercial registers of that city. The court rendered its award on February 8, 1901.

It is appropriate to transcribe here the considerations and the decision of this award.

In the Spanish version signed by the arbitrators we read:

Considering: That Alsop & Co. is a society, "en comandita simple," duly organized, incorporated, and registered under the law of Chile, with all the formalities of said law and domiciled in Chile; that a society "en comandita simple" (exactly the same as a society *anonima*) constitutes a juridical person distinct from the partners considered individually; that in accordance with the principles of the civil law, as they are applied to commercial societies, such societies continue to exist during liquidation; that Alsop & Co. being a Chilean society, is a citizen of Chile; therefore, in accordance with article 1 of the convention of 1892, this commission has no jurisdiction over this claim.

And further on it is added:

Therefore the case is dismissed, without prejudice, however, to any rights which the claimant, or claimants, or Alsop & Co., or its liquidator may have, either through diplomatic intervention or before the Government of Chile, or the courts of Chile. Nor are the merits of this claim impaired in any way by virtue of this decision. According to the brief of the honorable agent of Chile, it is declared that this claim is comprised among the obligations which the Chilean Government agrees to pay on account of Bolivia. The Chilean Government has always considered it and still does consider it as an obligation on the part of Bolivia toward the claimant; and in order to induce the Bolivian Government to sign the permanent treaty of peace which has been under negotiation for many years, the Government of Chile promises to satisfy this and other claims as a part of the payment or consideration which it offers to Bolivia in exchange for the signature of the treaty. This has always been the attitude of the Chilean Government and is its attitude at present, and if Bolivia signs the treaty, the claim of Alsop & Co., as well as the other claims mentioned, will be paid promptly in accordance with the treaty agreements, as a relief to Bolivia from the obligations which that Government has contracted and for the account of Bolivia.

"Consequently," concludes the award, "the claimant is referred to the protection of the Chilean Government, whose statements are thus expressed, and the case is rejected."

This was not the only case in which the court of arbitration declared that the firm of Alsop & Co. was of Chilean nationality.

Based on this same consideration, it also rejected claim No. 26, presented by this firm in conjunction with claim No. 31 of Grant-Walker, both being claims in which damages were demanded from the Chilean Government on account of the capture of the North American vessel *Sportsman* (by a Chilean war vessel in July, 1857).

The award of the Washington tribunal, which involves the good faith of our respective Governments, contains, in summarized form, the following explicit declarations:

1. The firm of Alsop & Co. is a Chilean person, whatever be the nationality of the individuals composing it, and therefore it could not appear against the Chilean Government as a citizen of the United States.
2. This decision does not deprive Alsop & Co. of the right to assert their claims against the Government which is under obligation to satisfy them.
3. The tribunal takes note of the declaration made by the Chilean agent to the effect that, although his Government considers that the claim of Alsop & Co. ought to be paid by Bolivia, Chile offers to settle it by means of the sum which is specified in the treaty of peace with that country as a compensation for the cessions of territory which Bolivia is to make to Chile.
4. In consequence of the foregoing declaration, the claimant can only be protected diplomatically by the Government of Chile.

And this latter declaration is expressly corroborated in the note which the Chilean minister to the United States addressed to the department under my charge on February 25, 1901, which note is all the more authoritative because this minister, together with the minister of Switzerland at Washington, formed the majority of the tribunal which rendered the award.

On the other hand, as regards that part which refers to diplomatic protection, the aforesaid declaration is in perfect accord with the practice uniformly followed in this respect by the Department of State, according to which practice a corporation has, for these purposes, the nationality of the country in which it is constituted. (See Moore, *A Digest of International Law*, Washington, 1906, vol. vi, par. 984, p. 641 and par. 985, p. 646; see also pars. 982 and 983.)

The mere statement of the foregoing facts will enable your excellency's enlightened mind to appreciate the extent to which my Government deferred to the firm of Alsop & Co. If it did not permit this firm to appear against it as a North American creditor, it nevertheless promised, in exchange, to give due attention to its claim on signing the treaty of peace.

And, being desirous of settling this matter with facility as well as out of special deference to the United States, where the members of this Chilean firm resided, it gladly accepted the good offices of your excellency's Government.

In acting thus it cherished the hope that your Government would help to persuade the claimants that it was best for them to moderate their demands with regard to the amount of the debt, thus insuring a settlement which it had not been possible for them to obtain from the Government of Bolivia.

Hence this department, in reply to the various propositions made by your honorable predecessors, made offers of payment which it deemed adequate and just, but which were not accepted, and it reiterated in every case its previous promise to take duly and liberally into account the Alsop claim upon signing the treaty of peace.

The treaty was signed on October 20, 1904, and in Article V it was stipulated that Chile should devote the sum of 2,000,000 pesos gold of 18d. each to the settlement of some of Bolivia's debts specified in said article. Among them was the "debt acknowledged in favor of Mr. Pedro Lopez Gama, represented by Messrs. Alsop & Co., who had acquired the rights of the former."

In a document duly recorded on November 15, of the same year, it was set forth that, in accordance with the spirit of said treaty and with the facts which had given rise to it, the Government of Chile reserved full liberty "to examine, classify, and settle the claims enumerated in Article V," and also that, outside of these obligations, the said Government did not undertake the settlement of any other claim against the Bolivian Government, whatever might be its nature and origin.

My Government, which thus fulfilled its promise, thought it suitable, before submitting this compact to the approval of the National Congress, to induce all the creditors enumerated in Article V, to accept, in payment of their claims, the amount which belonged to them by virtue of said article. And in order to secure this acceptance on the part of Alsop & Co., my Government instructed its minister at Washington to have a talk with their representative.

While this negotiation was still pending, this department was surprised by a note from the United States minister under date of February 2, 1905, in which, in connection with the ratification of the treaty of peace by the Bolivian Congress, he asked the department to fulfill the promise which it had previously made to give special and even generous consideration to the Alsop claim.

This note was answered on March 21 of the same year, your excellency's distinguished predecessor being reminded that, through the medium of the Chilean Legation in Washington, propositions had been made to the interested parties in said claim which it was hoped would lead to an early settlement.

Shortly before, on February 11, 1905, a suit was begun in Santiago by the guardian of a demented daughter of Mr. Pedro Lopez Gama against all the members of the firm of Alsop & Co., praying that the transfer be declared null and void which the said Gama had made in 1875 to this firm of the claim against the Bolivian Government.

In the complaint instituting suit it was requested that the bonds intended for the settlement of this claim be retained in possession of the Treasury Department at the order of the court.

In regard to this suit the *chargé d'affaires* of the United States sent a communication to my department on August 12, 1905, asking information on several points connected with the aforesaid distraint.

In this note he remarked that the acceptance of the bonds on the part of his Government "did not constitute *per se* a waiver of its right to continue interposing its good offices before the Chilean Government in behalf of Alsop & Co."

This department, in its reply of September 4 following, stated to the *chargé d'affaires* that it would make it a point to ask the Treasury Department for the data referred to in the said note in order to transmit them in due course.

At the same time, in order to obviate any doubts as to the scope and nature of these negotiations (and this is a point to which my Government ascribes special importance), it deemed it necessary to observe to the *chargé d'affaires* that, in view of the fact that the court of arbitration at Washington had declared Alsop & Co. to be a Chilean corporation, it could not assign any other character to the steps taken by said legation in this matter than that of a "simple conciliatory exercise of good offices" (*injerencia*), undertaken for the purpose of bringing about the agreement which was sought in order to terminate the matter within the limitation of Article V of the treaty of peace.

Besides stating the form in which it accepted the action being taken in behalf of this claim by the United States legation, the aforesaid note of this department declared that it was only out of consideration toward your excellency's Government that the Chilean Government condescended to include the claim of Alsop & Co. among those to the settlement of which it had devoted a sum within the restricted limitations set forth in the treaty of October 20, 1904, with the Bolivian Government.

This was, Mr. Minister, the status of these negotiations when the *chargé d'affaires* ad interim of your excellency's legation presented to me his communication of June 27 of last year.

In this note he confined himself, as I mentioned above, to commending the matter to this Government and to transmitting the instructions which his Government had sent him in regard to the Alsop case, in which instructions the principal points in the history of the case are set forth as well as the negotiations which have taken place in regard to it between the Chilean and United States Governments.

The origin, progress, and nature of the negotiations of your excellency's Government in behalf of Alsop & Co. being thus set forth in their fundamental outlines, it behooves me now to mention the extent to which my Government has fulfilled its purpose to attend to the claim of this commercial firm in a satisfactory manner.

Chile was under no obligation to take upon herself the payment of this claim, even in part, since it is a principle of international law, supported by numerous diplomatic precedents that, in cases of annexations or cessions of territory there does not pass as of right to the cessionary or annexing nation any debt of the other nation, and that, in order that any debt may thus pass, it is necessary that it shall have been expressly acknowledged by stipulation, which is frequently done out of obvious considerations of equity.

And in the present case the good will of my Government becomes more than manifest if we take into consideration that the Alsop claim had been the object of litigations and compromises on the part of the Bolivian Government, because its settlement rendered it susceptible of very well-founded criticism.

However, the liberality of my Government in assuming the settlement of this claim by paying a considerable part of it was not duly appreciated by the representative of this firm, who, not being satisfied with the amount assigned to him in the treaty of peace, claimed, as the Chilean minister at Washington saw fit to express it on more than one occasion, that by reason of the fact that this debt was secured by property situated in the territory acquired by Chile in virtue of this same treaty, my Government was under obligation to pay it in its entirety.

Your excellency will realize how inadmissible such an argument is if you consider the fact that the security for the Alsop claim is, like that of many creditors of the Bolivian Government, not a civil law mortgage, but simply a financial guaranty given by the nation for the purpose of insuring the fulfillment of a contract.

I think it would be a waste of time to stop and explain to your excellency the almost unanimous opinion of publicists with regard to the significance or purport of this class of guaranties. They agree that they can neither exist nor be enforced except as long as the nation which gave them exercises its sovereignty over the territory in which the property is situated which constitutes the guaranty or security, the latter losing all its value when the territory passes over to the sovereignty of another nation.

I do deem it opportune, however, to call your excellency's attention to certain important diplomatic precedents in connection with this subject, in which my Government was a directly interested party.

The creditors of Peru whose claims were secured by guano deposits which passed over to the possession of Chile after the War of the Pacific have fully discussed the nature of this subject before foreign courts.

In the decision of the supreme court of England of April 18, 1877, in the suit of *Twycross v. Dreyfus*; in the decision rendered by the court of appeals of Paris on June 25 of the same year in the case of *Domis and associates v. Dreyfus & Co.*; and in the decision rendered in the court of appeals of Brussels on the 4th of August following, it was declared that the plaintiffs were not in reality mortgage creditors as they claimed to be, and that the guaranty which they set up was nothing more than a personal obligation on the part of the Peruvian Government, without any importance from an international standpoint.

On the other hand, the Franco-Chilean court of arbitration, which sat at Lusanne for the purpose of distributing 50 per cent of the net proceeds from the sale of a million tons of guano among the creditors of Peru whose claims were secured by this product, declared Chile to be entirely in the right as regards the value and purport which it ascribed to this guaranty. In consideration D, No. 2, of this award of July 5, 1901, rendered at Rapperswyl, is declared that the existence of the real right which the creditors of Peru claimed to be guaranteed by the guano "is not upheld by the doctrine or the practice of international law, and that this contention is based on an inaccurate juridical understanding of the relations existing between the borrowing nation and the private parties who take the loan."

Furthermore, in No. 3 of consideration D it is declared "that it is proven that at the time of the Chilean occupation the guano deposits of Peru were not encumbered by any real right (lien) in favor of the creditors of the latter nation."

If the doctrine above set forth was substantiated with regard to claims which were secured in so special and absolute a manner by guano and saltpeter deposits situated in Peruvian territory, with how much more reason should this doctrine be applied to the guaranties given by the Bolivian Government in favor of Alsop & Co. which did not possess these characteristics.

But this is not the only thing. These guaranties were all the less worthy of consideration on the part of the Chilean Government for the reason that the greater part of them had been given in the form of security on property situated in Chilean territory which my country regained from Bolivia during the War of the Pacific (Caracoles mines), while the remaining security was on property three-fourths of the proceeds of which went to Bolivia by virtue of the truce agreement (right to certain revenues of the Arica customhouse in which Bolivia had an interest), the remainder being devoted to the maintenance of the customs service itself.

Therefore, one of these securities of the Alsop claim was given by Bolivia on territory which was really Chilean, while Bolivia has had almost the entire usufruct of the other since 1884.

I will take up another point.

I believe it my duty to rectify the idea expressed by the State Department in the instructions sent to the chargé d'affaires of your excellency's legation and transmitted in your aforementioned note of June 27, when it states that your Government is convinced that the Chilean Government ought to pay the claim of Alsop & Co. in full because it so promised the Bolivian Government in the confidential communications exchanged between the plenipotentiary of the latter country and the Chilean minister of foreign relations on October 21, 1904.

This department trusts that your excellency's Government will not attach great weight to this circumstance, since the confidential character of those communications render it impossible to ascertain their authenticity and to estimate to what extent they reflected the real thought of both Governments.

But even supposing that these confidential communications were authoritative, they have not the significance which your excellency's Government has ascribed to them.

In his communication of October 21, 1904, the Bolivian plenipotentiary stated to our minister of foreign relations that the purport which his Government assigned to Article V of the treaty of peace was "that it had been agreed that the Chilean Government shall finally settle all the claims mentioned in that article, so that Bolivia shall have no further responsibility, it being the duty of the Chilean Government to meet every subsequent claim presented by private means or through diplomatic action, considering itself responsible for every obligation bond, or document, of Bolivia at all times, the Chilean Government undertaking to pay them all in their entirety."

And to his question as to whether this was also the purport which the Chilean Government ascribed to this article, our minister of foreign relations did not answer by assenting plainly and frankly—that is to say, by repeating the words of the Bolivian minister, as is customary when there is a full concordance of ideas—but in a distinct form, declaring that in his opinion "the obligation which Chile contracts by Article V of the aforesaid treaty comprises that of adjusting directly with the two groups of creditors, recognized by Bolivia, the final settlement of each of the claims mentioned in said article, relieving Bolivia of all further responsibility.

"Consequently," he adds, "it is understood that Chile, assuming and acquiring all the obligations and rights which may be incumbent upon or due Bolivia in connection with these claims, will satisfy any demand or claim which may be presented by your excellency's Government on behalf of any of the parties interested in said claims."

There is a radical difference between these two communications: Our minister did not declare that Chile obligated herself to pay in full all the claims mentioned in Article V, as the Bolivian plenipotentiary expresses it, but to adjust directly with the creditors the final settlement of each one of its claims, thus relieving Bolivia of all further responsibility.

It is not the same thing to obligate oneself to satisfy a claim in full as to obligate oneself to arrange its final settlement, since the latter can be secured not only by means of full payment but also by means of a compromise or similar agreement. And this latter was what the Chilean Government really did.

Before ratifying the treaty of peace, it endeavored to bring about, and it succeeded in bringing about, that all the creditors enumerated in Article V, with the sole exception of Mr. Juan Garday and Alsop & Co., should accept the sums allowed them by the treaty and that they sign the full acquittance.

If it did not wait until the creditors mentioned also signed this agreement, the reason was, as far as the former was concerned, that his claim was very small, and as regards the latter, because it was confident that the negotiations begun for the purpose would result favorably, inasmuch as there was no reason to expect that this Chilean firm would refuse to accept a reduction which the other creditors had no objection to accepting.

The purport of the note in question could be no other than what I have had the honor to state and to maintain the contrary; that is, as one is led to infer from the communication of the chargé d'affaires of the United States, that its meaning is that the Chilean Government acknowledges its obligation to pay in full the claims enumerated in Article V of the treaty—this would be tantamount to supposing that the minister of foreign relations who signed it had exceeded his powers by substantially altering, in confidential communications unknown to the National Congress, one of the fundamental articles of a treaty concluded with all the formalities prescribed by the constitution of the nation and by the law of nations.

Such a supposition would amount to a charge against one of my honorable predecessors, which it can not be presumed that your excellency intended to make.

At all events your excellency will agree with me that agreements contracted in an irregular manner and contrary to the clear and explicit stipulations of a treaty are null and void.

Therefore the natural and lawful purport of the confidential communications of my honorable predecessor can only be interpreted to mean that my Government will satisfy the claims mentioned in Article V of the treaty with Bolivia, but of course only to the extent of the sum therein specified.

Finally I have no reason for expressing my opinion as to the authenticity of the aforesaid communication, since they do not modify the line of conduct imposed on this Government by the text of the treaty, but I must confirm to your excellency the declaration which I previously made to the *chargé d'affaires*, to wit, that Chile has made no payment to any of the creditors contemplated in the treaty of peace with Bolivia, nor can she make such payment in future to any other creditor otherwise than in consideration of the total cancellation of the claim.

I consider that the foregoing considerations will leave in your excellency's mind the impression that the liberality with which my Government has thus far sought to treat the claim of Alsop & Co. does not permit it to assign thereto any larger sum than that to which it has been restricted by the treaty of peace.

Therefore I have the honor to repeat to your excellency that my Government is ready to pay, in bonds, and in consideration of the total cancellation of the claim, the sum of 524,332.81 pesos gold of 18 pence each as principal, and 78,649.92 pesos in gold coin at 18 pence each as interest on coupons due thereon (including the coming coupons which will be due June 10). The bonds earn 5 per cent interest and have an accumulative sinking fund of 1 per cent per annum.

I am sure that upon mature reflection it will appear advisable to the heirs of Alsop & Co. to accept this proposition.

By accepting it they would not only be enabled to obtain the immediate payment of their claims which has been pending so long, but they would be exempted from having it revised and liquidated, as the Chilean Government is authorized to do by virtue of one of the supplementary acts of the treaty of peace, which privilege, if strictly exercised, might result in a considerable reduction of the claim.

Then again they would also escape the effect of the action which the heirs of Pedro Lopez Gama have instituted against them, and as the result of which the bonds intended for the payment of the claim are being retained.

But, although my Government shows what might be called an excessive anxiety to settle this matter promptly and liberally it can not leave unnoticed the fact that your excellency's legation reserved the right, notably in its communications of June 27 and November 25 of last year, to collect from Bolivia the part of the claim of Alsop & Co. which is not paid by Chile.

Although this case can not happen since Chile is resolved to make no payment whatever unless full settlement of the claim is acknowledged, I trust that your excellency's Government will not take this stand, since it would be in open contradiction to the award of the tribunal at Washington which declared Alsop & Co. to be a Chilean corporation entitled to diplomatic protection on the part of the Chilean Government only. However, if such an eventuality should occur, for reasons which I can not foresee, this ministry would deem it its duty to communicate in due time with the Bolivian Government, declining all responsibility for any payments which the latter might make in behalf of the aforesaid firm.

My Government does not expect, either, that the United States Government would interpose a diplomatic claim in favor of Alsop & Co. in case the settlement which I have had the honor to propose is refused by the interested parties.

Such a course would not only be contrary to the decision of the aforementioned arbitral award, but it would be in opposition to clearly established doctrines of international law.

It is, in fact, a principle recognized the world over that when a foreigner has rights to assert or damages to claim against a nation, he must appeal to the judicial or administrative authorities of the latter and the nation to which he belongs can not afford him diplomatic protection until after all the legal remedies are exhausted, and then only in very well warranted cases, notably in case of a denial of justice.

The United States has itself recognized the validity of this principle, as it could not help doing, in many instances, sometimes as claimant and sometimes as the party against whom the claim was presented; and it has advised its representatives, in cases of this nature, to respect the laws and authorities of the country in which the event occurs. (Moore, *op. cit.*, Vol. VI, par. 971, pp. 609, 610; pars. 986 and 987, pp. 651-677; and par. 995, p. 708.)

However, if, in spite of all these reasons, the heirs of the Chilean firm of Alsop & Co. should reject the proposed settlement, and if your excellency's Government in the intention for procuring for them more favorable conditions should decide to turn the good offices which it has hitherto been exercising in their behalf into a diplomatic claim, my Government declares beforehand to your excellency that it could not receive such a claim, and at the same time it declares to your excellency that, in case such an event should occur, it has resolved in advance to invite your excellency's Government at once to submit the case to arbitration. My Government is very certain that the justice of its contention can not help being recognized by this procedure

and it is also certain that this will prevent controversies originating from purely pecuniary questions from disturbing the harmony which we wish always to prevail in the relations between our countries.

I avail myself of the opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

F. PUGA BORNE.

The Acting Secretary of State to the Chilean Minister.

DEPARTMENT OF STATE,
Washington, August 29, 1908.

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, transmitting a copy of a note which the minister of foreign relations of Chile addressed to the American minister at Santiago on April 9 last, regarding the claim of Alsop & Co.

The inclosed report from the Chilean foreign office will receive full consideration by this department.

The department is pleased to observe in your courteous offer to furnish this department with antecedents and information regarding this case, that spirit of equity and justice which should characterize the intercourse of two sovereign powers, and desires to extend to you its assurances that it has no other wish than to secure a fair and honorable adjustment of this long-standing difficulty. To the end that it may be in a position to arrange for such a settlement, the department has recently undertaken again to examine, elaborately and carefully, the whole history of the claim with a view to securing a definite understanding of its merits. In the course of this examination, now almost completed, it has observed that the sum offered by Chile in settlement of the Alsop claim not only fails to include an amount to cover the interest that was stipulated for in the agreement between Mr. Wheelwright and the Bolivian Government, but that the sum is less, by a large amount, than the mere principal of the debt which Bolivia in that same agreement acknowledged to be lawfully and legally due. The department has found nothing in its own archives which appears to justify any such reduction of the amount due under that agreement, and for this reason presumes that it has not before it all of the evidence upon which your Government relies for its guidance. Therefore, animated by a desire to make as to this matter no request which equity and justice does not support, the department is pleased to avail itself of your courteous offer to furnish to it antecedents and information regarding the case, and respectfully requests that your procure for it, as soon as your convenience will permit, copies of the documents and statements of the evidence which your Government regards as justifying the reduction which it proposes.

Accept, etc.

ALVEY A. ADEE.

The Acting Secretary of State to the Chilean Minister.

No. 17.]

DEPARTMENT OF STATE,
Washington, November 24, 1908.

SIR: Referring to your legation's note of July 31, 1908, transmitting a copy of the note which the minister for foreign affairs of Chile addressed to the American minister on April 9 last, regarding the claim of Alsop & Co.; and referring also to the department's

reply to your legation's said note, under date of August 29, 1908, I have the honor to say that the department would be glad to receive at as early a date as practicable the information and antecedents regarding this case offered by the Government of Chile through your legation's note mentioned above, and which the department, in its said note of August 29, 1908, expressed its wish to receive, on the ground that, as nothing in its own archives appeared to justify the reduction proposed by Chile in the amount due under the agreement between Mr. Wheelwright and the Bolivian Government it was desirous of examining, as soon as your legation's convenience would permit, copies of the documents and statements of evidence which your Government regards as justifying such a reduction.

The department desires to reach an early conclusion of its renewed examination into the merits of this long standing difficulty, and it is for this reason that it begs to renew its request for the information so courteously offered by your Government, in order that by having before it all the documents the department may be fully informed concerning all matters that have a bearing upon the merits of the claim.

Accept, etc.,

ROBERT BACON.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 7.]

LEGATION OF CHILE,
Washington, November 26, 1908.

SIR. I have had the honor to receive your excellency's courteous note of the 24th instant in which, referring to this legation's communication of July 31 to the department and to the department's note of August 28, both relative to the claim of Alsop & Co., your excellency is pleased to say that the department would be glad to receive the information and antecedents held by the Government of Chile that would justify the reduction proposed in the amount due under the agreement between Mr. Wheelwright and the Government of Bolivia.

In reply I have the honor to say to your excellency that the legation duly informed its Government of the wish expressed by your excellency in the said note of August 29 and that it will also acquaint it, by the next mail, with the contents of your excellency's note of the 24th instant to which this is an answer. I will promptly communicate to your excellency whatever information or antecedent I may receive, from my Government regarding this matter.

In the meanwhile I venture to repeat to your excellency the wish I have had the honor to express to your excellency on a previous occasion to the effect that the Government of Chile, sensible of the justice of its cause and of the elevated and upright discernment which prevails in the chancellery of the United States, attaches special interest to his excellency the Secretary of State taking personal cognizance of the antecedents of the case and especially of the note of April 9 to the American minister at Santiago in which the claim of the Chilean firm of Alsop & Co., is analyzed and the attitude of our chancellery toward it defined.

I avail, etc.,

ANIBAL CRUZ.

The Acting Secretary of State to Minister Hicks.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 24, 1909.

Department's No. 139 of November 30. On July 31, 1908, Minister of Chile affirmed authority to furnish department antecedents Alsop claim when he transmitted a copy of Mr. Puga Borne's note of April 9. On August 29 the minister was requested by department to furnish antecedents justifying Chile's reduction of the Alsop claim. A reply not having been received department renewed its request on November 24. On the 26th of November minister of Chile stated that he had informed his Government of this request. Nothing further has been heard. Inform Government of Chile of this and say that the department is most desirous of reaching a fair and equitable determination upon this matter and awaits the antecedents mentioned by Government of Chile and requested by department. Further delay deprecated.

BACON.

Minister Hicks to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Santiago (rec'd Feb. 26, 1909).

In regard to the matter of the Alsop claim I have received a reply from the Chilean foreign office stating that the antecedents which were called for by the department have been sent to the minister of Chile at Washington, same date. Foreign office adds that principal part of antecedents was stated in communication sent to me by Puga Borne April 9 last, a copy of which I forwarded to the department.

The Secretary of State to the Chilean Minister.

No. 22.]

DEPARTMENT OF STATE,
Washington, March 18, 1909.

SIR: Referring to previous correspondence regarding the Alsop claim, and particularly to the notes specified as follows:

Your note of July 31, 1908, which transmitted one addressed by the Chilean foreign office to the American minister at Santiago, and in which you stated that you were authorized to furnish to the Department of State antecedents and information regarding the case; the department's note of August 29, 1908, in which the department accepted this offer and requested copies of the documents and statements of the evidence on which the Government of Chile relied to justify the reduction of the amount which it proposed to pay to the Alsop claimants; the department's note of November 24, 1908, referring to its earlier note and stating that the department would be glad to receive the information offered by the Chilean Government; and your note of November 26, 1908, stating that this Government's request had been communicated to your Government, and that, upon the receipt of the information requested, it would be transmitted to

the department, I have the honor to inform you that the department received a telegram last month from the American minister at Santiago stating that he had been informed by the Chilean foreign office that the antecedents requested had been sent to your legation.

The department has for many years urged upon the Chilean Government the equity of the Alsop claim, but thus far it has been unable to induce that Government to suggest any settlement which seemed at all adequate to the merits of the claim. The department is most desirous of reaching a final determination, at an early date, concerning the amount which in its judgment is properly due to the claimants in this case, and begs to express the hope that you will communicate to it, at your earliest convenience, the documents which your Government is now forwarding to you.

Accept, etc.

P. C. KNOX.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 18.]

CHILEAN LEGATION,
Washington, April 16, 1909.

SIR: Referring to the conversation which I had with your excellency yesterday, and to the desire expressed by the honorable Mr. Wilson to know the circumstances on which the Chilean Government based its action in reducing the amount of the claim of Alsop & Co.; premising the remark that the Chilean Government considers this claim to be that of a firm declared to be Chilean by an international tribunal and recognized as such by the President of Bolivia in his last message, and that, consequently, it can not be defended diplomatically by your excellency's Government; and without any intention of analyzing the merits of said claim, since the locus of the discussion of the subject is in Santiago, I have the honor to give to your excellency the following explanation:

The treaty of peace concluded between Chile and Bolivia on October 20, 1904, provided in article 5 that the Government of Chile should devote the sum of 2,000,000 gold pesos of 18 pence to the cancellation of some of the debts of Bolivia, therein determined, among them being that of Mr. Pedro López Gama, represented by Messrs. Alsop & Co.

With this sum of 2,000,000 gold pesos of 18 pence the said debts were canceled pro rata, the amount corresponding to Alsop & Co. being indicated in the note sent by the minister of foreign relations of Chile to the American minister at Santiago, where your excellency will find it. The other creditors declared that they were satisfied and received the quota corresponding to them, executing an acknowledgment of receipt in full. My Government hopes that the representatives of Alsop & Co. will do likewise.

The Government of Chile has absolute confidence in the spirit of justice of the Government of the United States and is firmly convinced that your excellency will consider warranted the attitude assumed by our chancelry in the note to the American minister to which I referred.

I avail, etc.

ANIBAL CRUZ.

The Acting Secretary of State to the Chilean Minister.

No. 23.]

DEPARTMENT OF STATE,
Washington, April 22, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, stating that your Government's offer of a reduced amount in settlement of the Alsop claim was due to the fact that the amount provided for the payment of certain debts of Bolivia by the treaty of peace concluded by Chile and Bolivia on October 20, 1904, was sufficient to pay only a pro rata to each creditor, and expressing the opinion that the claim of Alsop & Co. can not be defended diplomatically by the United States, for the reason that the firm is Chilean.

Referring to your note of July 31, 1908, in which was stated the offer of your Government to furnish to this department antecedents and information regarding the Alsop claim; to the department's reply thereto of August 29, 1909, in which the department, accepting and relying upon that offer, requested that it be furnished with the evidence concerning the Alsop claim upon which the Government of Chile depended to justify its offer in settlement of the claim of a sum so much reduced from that due under the contract; and to your note of March 19 in which, in acknowledging department's inquiry of March 18, you stated that as soon as the evidence called for had been received it would be forwarded to this department, the department desires now to call attention to the fact that it has not as yet received these documents.

The department regards this circumstance as confirmatory of your statement, made to Assistant Secretary Wilson during a conversation between Mr. Wilson and yourself on April 15, 1909, that the Government of Chile has no evidence concerning the merits of the Alsop claim which would justify that Government in offering to the Alsop claimants in settlement of their claim any sum less than that called for by the terms of the contract of 1876 with the Bolivian Government.

Accept, etc.,

HUNTINGTON WILSON.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 20.]

LEGATION OF CHILE,
Washington, April 23, 1909.

SIR: I have had the honor to receive the department's note of yesterday (file No. 1154-124) in which the receipt of the communication I addressed to your excellency under date of the 16th instant is acknowledged and your excellency, referring to the correspondence exchanged between the department and this legation in regard to the claim of Alsop & Co., calls my attention to the fact that the desired documents have not yet been received. Your excellency's note adds that the department regards this circumstance as confirmatory of my statement to the honorable Mr. Wilson made on April 15, viz, that the Government of Chile has no evidence concerning the merits of the claim which would justify the offer

made to the Alsop claimants in settlement of their claim of a sum less than that called for by the contract of 1875 with the Government of Bolivia.

I shall, as I did in the case of the department's previous notes, acquaint my Government with the contents of your excellency's communication under reply by the next mail. In the meanwhile, and again presenting to your excellency the plea offered in my note of the 16th instant to the effect that the case is that of a Chilean firm and that my Government desires that it continue to be discussed at Santiago, I beg leave to draw your excellency's attention to the award rendered by the Chilean American tribunal which rejected this claim on the grounds therein set forth, turned over the claimants to the protection of the Government of Chile, and accepted and adopted as its own the declaration made before it by the agent of Chile, in this sense: "If Bolivia signs the treaty, the claim of Alsop & Co., as well as the other claims mentioned, will be promptly paid under the treaty engagement, as a relief to Bolivia from the liabilities which that Government has incurred and for the account of Bolivia."

The treaty of peace with Bolivia, from which alone flows Chile's obligation to meet this claim; the last of the awards above referred to which declares Alsop & Co. to be a Chilean firm; the last message of the President of Bolivia which recognized it as such; and the other documents adduced in the note of the minister of foreign relations of Chile to the American minister at Santiago under date of April 9, 1908, are the principal antecedents which my Government stands upon and which it regards as highly important in the estimation of this claim, in which estimation it has reason to feel assured that your excellency will concur.

I beg, etc.,

ANIBAL CRUZ.

The Secretary of State to Minister Dawson.

No. 5.]

DEPARTMENT OF STATE,
Washington, August 5, 1909.

SIR: As soon as practicable after your formal reception by the president of Chile you will present to the minister for foreign affairs a note as follows:

The undersigned envoy extraordinary and minister plenipotentiary of the United States of America, has, by direction of his Government, the honor to bring anew to the attention of the Government of Chile, the claim of the firm of Alsop & Co., in the expectation that that Government, animated by a spirit of plain justice, will accept one or the other of the two proposals herein set forth for the settlement of a controversy which has for so inordinate a length of time been dragging on as a disturbing factor in the relations of the two Governments.

The recent correspondence regarding this claim which has passed between the United States and Chile would tend to reveal the extraordinary situation that, notwithstanding the numerous promises and undertakings of the Government of Chile to meet the claim as hereinafter set forth, and notwithstanding, as will also be shown, the fact that the Government of Chile now admits that it has no evidence

going to show that the full sum called for by the terms of the contract was not equitably due, the Government of Chile is nevertheless now prepared to suggest a doubt as to the right of the Government of the United States formally to espouse this claim and diplomatically to request its settlement.

This seeming attitude of the Government of Chile has been observed with surprise by the Government of the United States which regards the claim as the claim of American citizens, equitable and just in its nature, and valid and subsisting as against the Government of Chile. Feeling, therefore, that this attitude of the Government of Chile must, if assumed at all, have been taken without careful and attentive consideration of the facts and circumstances connected with the case, the Government of the United States, in order that the matter shall be fully and properly presented to the attention of the Government of Chile, has instructed the undersigned to lay before his excellency the minister of foreign affairs for the Republic of Chile the following statement of the jurisdictional facts, as shown by the records of the Department of State of the United States, upon which the claims against the Government of Chile are based.

For a period of years prior to 1874, one Pedro Lopez Gama advanced to the Government of Bolivia large sums of money which, as evidenced by appropriate documents in writing, that Government became indebted to Gama to the value of 150,000 tons of guano. Gama was in turn indebted in large amounts to Alsop & Co., who had loaned him the money which he had advanced to the Government of Bolivia. To meet this indebtedness to Alsop & Co. for actual money thus loaned (which at that time amounted to more than \$1,250,000) Gama, in 1875, assigned to that company his rights against the Government of Bolivia, the assignment being by an express declaration approved and ratified by the Government of Bolivia.

In 1876 a special contract for the settlement of this debt was made between the Government of Bolivia and Alsop & Co., the latter acting through its liquidator, John Wheelwright, the firm of Alsop & Co. being an association of American financiers doing business with American capital in Chile and adjacent countries. This contract fixed the principal then due upon the debt at 835,000 Bolivianos (at that time worth about \$805,775 American gold) and provided that this sum was to bear interest at 5 per cent from the date of the contract. The same contract also stipulated for the payment by the Government of Bolivia to Alsop & Co. of interest then due, amounting to 240,700 Bolivianos (at that time worth about \$232,375.50 American gold).

This agreement, which the Government of Chile and that of Bolivia have both repeatedly recognized as legally valid and binding, specified two sources from which the debt was to be paid:

1. Bolivia's share of the customs receipts levied in the Peruvian port of Arica or (under a specified contingency) from a reestablished national customhouse of Bolivia.

2. The proceeds from certain State mines or estacas granted to Alsop & Co. for a period of 25 years, the estacas thus leased being located in the Bolivian littoral.

Before Alsop & Co. had received any payment upon account from the customs receipts and before the expiration of the period within

which Wheelwright was to make his selection of the Government estacas which he would work under his lease, war broke out between Chile on the one side and Peru and Bolivia on the other. The war closed with the Bolivian littoral, as well as the customhouse of Arica, in the possession of the Government of Chile, under whose provisional control and jurisdiction they have ever since remained.

This occupation injuriously affected the Alsop Co. in two ways. In the first place, it resulted in depriving it of any income whatsoever from the customs receipts of Arica which had been pledged to the payment of the sums due Alsop & Co., owing to the fact that the Governments of Chile and Bolivia, by a series of treaties and protocols negotiated after the war, provided for a distribution of the proceeds in a way entirely ignoring the rights thereto which were possessed by Alsop & Co., and it may be observed incidentally in this connection that a considerable portion (40 per cent of the total amount collected, after deducting 25 per cent for expenses of collection) was by this agreement devoted to the payment of claims held by citizens of Chile against the Government of Bolivia. In the next place, upon taking possession and assuming control of the Bolivian littoral, the Government of Chile, in nonobservance of the well-established principle of international law that all private rights and property must be respected and protected by a government assuming jurisdiction and control over territory in which such rights exist, applied to the littoral and to the Alsop mineral holdings therein certain provisions of Chilean law which not only materially derogated from the definite rights which Alsop & Co. had acquired from the Government of Bolivia under the Wheelwright contract, but also required that Alsop & Co., in order to retain their title to and possession of the mines, should expend large sums of money not necessary under Bolivian law. Alsop & Co. applied both to the courts and to the Executive of Chile to correct this trouble, but were able to obtain no relief from either. The company then referred this phase of the matter to the Department of State of the United States, which, after an examination of the questions involved, declared that the proceedings of the Chilean courts and the Chilean Executive were contrary to the principles of international law and amounted to a confiscation of property.

The undersigned begs further to point out regarding the other phase of this controversy that the Government of Chile, having taken from Bolivia the sources from which the Government of Bolivia planned to get the funds to meet the debt due under the contract, it was very early agreed and has since been formally incorporated in numerous protocols and treaties between Chile and Bolivia that the Government of Chile should assume and pay Bolivia's obligation as specified in the Wheelwright contract.

From 1885 until the present the rights of Alsop & Co. have been the subject of correspondence between the Government of the United States and that of Chile. The questions involved have gone before two claims commissions, the first of which found itself unable to pass upon the merits of the claim on account of the expiration of the time limit for its existence, and the second of which dismissed the claim for want of jurisdiction, owing to the peculiar wording of the protocol under which the claims were submitted.

Discussing first the liability of the Government of Chile for the amount called for by the Wheelwright contract, the undersigned deems it proper to preface the discussion with the remark that in all the correspondence which has taken place concerning this matter the Government of Bolivia has not only never questioned, but has never even suggested that the contract was not valid or that the whole amount called for by the contract, both principal and interest, was not justly and equitably due. Moreover, the Government of Chile has never questioned the legality of the contract; and while more recently it has been suggested by certain officials of the Government of Chile that the full amount of the claim, principal and interest, was not in equity due the claimants, yet the Government of Chile has failed even though specifically requested so to do to furnish to the Government of the United States any evidence which justified the position regarding this matter taken by the Government of Chile. Indeed, the present minister of Chile at Washington, Mr. Cruz, has expressly affirmed that the Government of Chile has no such evidence to offer.

Inasmuch, therefore, as the Government of Bolivia, which made the contract, and the Government of Chile, which has assumed the payment thereof, have never questioned the legality of the contract; and inasmuch as the Government of Bolivia has never questioned that the amount called for by the contract was justly and equitably due; and inasmuch as while certain officials of the Government of Chile have suggested that the full amount called for by the contract was not properly due the claimants, yet the Government of Chile has failed, though repeatedly and specifically requested so to do, to furnish any evidence in support of this suggestion by its officials; and inasmuch as the minister of Chile at Washington states on this point that the reason that the Government of Chile has not submitted the evidence is that it has none such in its possession, the Government of the United States is unable to perceive wherein there is any ground sufficient to justify a further refusal upon the part of the Government of Chile to pay to the claimants the full amount called for by their contract of 1876 with the Government of Bolivia. Indeed, in this connection the Government of the United States has not forgotten and the Government of Chile can not fail to remember the many and repeated promises of the Government of Chile to pay this debt due from the Government of Bolivia to Alsop & Co. and assumed by the Government of Chile. These promises appear in the diplomatic correspondence between the United States and Chile, in the formal treaties negotiated between Bolivia and Chile, and in the formal assurance made by the present minister of Chile at Washington, as agent for the Government of Chile, before the second United States and Chilean Claims Commission.

It is also within the knowledge of the Government of Chile that very soon after the outbreak of the war between Chile on the one hand and Bolivia and Peru on the other, the minister of foreign affairs for Chile addressed to the various foreign ministers at Santiago a circular in which he used the following language:

I need not assure your honor that your countrymen will find every description of guarantee for their persons and interests in the territory in which Chilean law has now resumed its sway.

The records of the Chilean ministry of foreign affairs will bear out the statement that relying upon this formal declaration by the Government of Chile, the Government of the United States, notwithstanding numbers of its citizens found themselves deprived of their rights and property, refrained from making any urgent representations in their behalf, secure in the belief that, pursuant to the high purpose it had announced, the Government of Chile would voluntarily, upon the cessation of hostilities, restore such citizens to the rights and property of which they had been deprived. Inasmuch, however, as there was some delay in carrying out this guarantee thus formally given, the minister of the United States at Santiago, early in 1884, took up the matter of the payment of certain American claims, then pending with His Excellency the President of Chile, whereupon President Santa Maria assured the minister of the United States that the Government of Chile would honorably settle every just claim upon it, but requested that the Government of the United States "postpone any further action in the case until such time as the definite arrangement with her opponents would leave Chile free to consider the questions growing out of the rights of neutrals." The minister of the United States at Santiago, in reporting this conversation, stated that the President of Chile was very cordial, and that the minister left with the conviction that the Government of Chile would honorably arrange for the settlement of American claims in accordance with the principles of law and equity.

With appropriate deference to the request of President Santa Maria that the matter of a settlement of American claims be not at that time pressed, nothing further was done until October, 1884, when the minister of the United States at Santiago again addressed a note to the foreign office of Chile regarding the settlement of American claims, in the course of which he made the following statement:

With a feeling of profound friendship for Chile, and appreciating the difficulties in which the Government was placed during the earlier part of the last quarter of a century, my Government has contended itself with simply presenting them to your excellency's Government for consideration, feeling entirely satisfied to await the arrival of a more auspicious moment when the high sense of justice which has always characterized your excellency's Government would certainly bring about their settlement upon an equitable basis.

In January, 1885, the minister of the United States informed the Department of State of his Government that in the course of an interview regarding the settlement of American claims, the Chilean foreign office informed him that it had decided not to enter into any other claims commissions than those already agreed upon, and that the Government of Chile would consider all claims upon the old basis of direct diplomatic negotiations. In 1887 his excellency the minister of foreign affairs for the Republic of Chile, in response to an inquiry made by him of the minister of the United States at Santiago (Mr. Roberts) as to whether or not he had received instructions in regard to American claims, was informed by the American minister that such instructions had been received, but that a "desire not to embarrass Chile in her negotiations with European powers, has kept me from presenting the matter to your Government." In May, 1888, the

minister of the United States at Santiago again informed the President of Chile that the Government of the United States had abstained from presenting these claims for consideration from a desire not to embarrass the Government of Chile while that Government was engaged in settling similar claims with European Governments, but now that the European claims had been settled, the Government of the United States, "naturally solicitous for the interests of its citizens, who for some time have been presenting their claims upon its attention, would like to negotiate for the appointment of a commission for their adjustment."

The minister of the United States was, however, unable at that time to arrange for the settlement of American claims.

In September, 1890, the minister of the United States to Chile, at that time Mr. Egan, informed the Department of State of the United States that he had refrained from taking up the question of the claims of American citizens against Chile because of certain strained relations which then seemed to exist between the legislative and executive branches of the Government of Chile. At about the same time the minister also reported an interview with President Balmaceda, in which he specifically mentioned the claim of the "late John Wheelwright," and in which the President of Chile assured him "of the readiness of Chile to fairly meet every just and reasonable claim," and requested the minister of the United States to furnish to the minister of foreign relations of Chile "a full statement of all United States claims against Chile." Accordingly, in a note addressed to the Chilean foreign office under date of August 30, 1890, the minister of the United States, after calling attention to certain American claims, and after briefly reviewing the postponements which had been made in the matter of their settlement, stated "that in 1884 President Santa Maria had conveyed to Minister Logan the request that the consideration be postponed until "such time as a definite arrangement with her opponents would leave Chile free to consider the questions growing out of the rights of neutrals, which time, His Excellency the President, considered would not be very long."

The minister of the United States then expressed himself upon this matter as follows:

Actuated by those sentiments of profound friendship which have ever characterized the relations of the United States of America with her sister Republic of Chile, and with the most entire confidence in the honor and sense of justice of the Chilean people, my government has been satisfied to wait until a favorable opportunity for a satisfactory arrangement should present itself.

In a note dated September 30, 1890, the minister of the United States, in accordance with the suggestion of the President of Chile, furnished to the Chilean foreign office a list of the American claims against Chile. Among the claims submitted at this time was that of Alsop & Co., which was set forth as follows:

No. 2. Representatives of the late John Wheelwright (the liquidator of Alsop & Co., of Valparaiso) for a debt of 835,000 Bolivian dollars, admitted and agreed by contract of the 24th of December, 1876, as being due from the Government of Bolivia to said claimants, and secured by mortgage upon the excess of proceeds from the northern customhouse, over and above the sum of 405,000 Bolivian dollars each year, and also by an agreement on the part of the Bolivian Government to lease to Mr. Wheelwright, as representative of the Alsop Co., for a term of 25 years all the Government Estaca mines on the coast of Bolivia, giving him three years to select those which he might consider worth working, which contract has been set aside by the Government of Chile.

On June 3, 1892, the minister of the United States, strictly confining himself to the Alsop & Co. claim, addressed a note to the Chilean minister of foreign affairs, which the undersigned begs to quote in full:

SIR: In view of the pending negotiations between the Government of Y. E. and that of the Republic of Bolivia with the object of establishing and confirming between the two countries a definite treaty of peace, a result which, on the part of my Government, I sincerely hope may be speedily arrived at, to the mutual and entire satisfaction of both Chile and Bolivia, I trust Y. E. will not consider it inopportune to call the attention of Y. E. Government to the claim of the representatives of the United States commercial house of Alsop & Co., formerly of Valparaiso, the particulars of which Y. E. will find set out in my note of September 30, 1890, addressed to the minister of Y. E. The claim is marked No. 2 in the second series of claims mentioned in said note, and is described as the claim of the "Representatives of the late John Wheelwright, liquidator of Messrs. Alsop & Co. of Valparaiso."

As Y. E. will perceive the claim is for a debt of 835,000 soles (\$835,000), with interest at the rate of 5 per cent per annum from the year 1876, which debt was solemnly acknowledged by the Government of Bolivia and the payment secured by lien upon the income of the northern customhouse over and above the sum of 405,000 soles (\$405,000) per year.

Upon the occupation of Tacna and Arica as the consequence of the war between Chile and Peru and Bolivia, this arrangement was arbitrarily set aside by the Government of Chile, to the great loss and suffering of the surviving partners and other representatives of the house of Alsop & Co.

There are also questions with regard to rights in certain mining property, situated in the territory occupied as above stated, and transferred by the Government of Bolivia to the representatives of Alsop & Co. as further security in connection with same debt and interest thereon, which rights have been refused recognition by the tribunals of Chile.

Of these rights under a lawful contract the Government of Y. E. was duly informed, anterior to the signing of the convention of truce with Bolivia, in a petition presented to Y. E. Government by Mr. John Stewart Jackson, attorney for the claimants, dated Valparaiso, September 11, 1882.

At the urgent request of his excellency, President Santa Maria, conveyed to the United States minister, Mr. Logan, in February, 1884, the consideration of the claims of United States citizens arising out of the conflict between Chile, Peru, and Bolivia, was deferred, in the words of his excellency: "Until such time as a definite arrangement with her opponents would leave Chile free to consider the questions growing out of the rights of neutrals." From considerations of profound friendship toward the Chilean Government and the Chilean people, my Government has, from time to time, up to the present, postponed these claims, although many of the claimants have been suffering great hardships on account of their losses, including some of those interested in this particular one. In view of these considerations I submit to Y. E. that in whatever definite arrangement may be made between the Government of Chile and that of Bolivia, this clearly acknowledged liability to the representatives of the house of Alsop & Co. should in right and justice be taken into account and definite provision be made for its early liquidation, a result which, in full reliance upon the high appreciation of international honor which characterizes the Government of Y. E., I sincerely hope to see accomplished.

I shall be prepared to submit to Y. E. in the course of a very few days all of the documents in the case.

Renewing to Y. E. the assurances of my high consideration and esteem, I have the honor to remain,

Y. E. obedient servant,

PATRICK EGAN.

A copy of this note the minister of the United States communicated to his Government on the same day, and on June 11, 1892, referring to his transmitting dispatch, he reported to the Secretary of State of the United States as follows:

I have the honor to refer to my No. 306 of 3d instant, inclosing a note addressed by me to the minister of foreign relations in regard to the claim of the representatives of the United States commercial house of Alsop & Co., otherwise known as the "Wheelwright claim," and I beg to say that on yesterday I had an interview on the matter with the subsecretary of foreign relations, and he told me that in consequence of the

changes of ministry it was not possible up to that time to send a written reply to my note of the 3d instant. He assured me, however, that in the definite (definitive) treaty of peace now being negotiated between Chile and Bolivia, under which Bolivia will cede to Chile all territorial claims upon Arica and Tacna, and Chile will undertake the payment of certain of the exterior debts of Bolivia, the payment of this debt to the representatives of Alsop & Co. will be undertaken by Chile.

The reply of the Chilean foreign office to the note addressed by the minister of the United States to it, on June 3, 1892, was made on June 18, 1892, and reads in translation as follows:

I have had the honor to receive Y. E.'s communication dated 3d instant and in which Y. E. "in view of the pending negotiations between the Government of Bolivia and that of Chile to establish a definite treaty of peace between the two countries," calls the attention of the Government of Chile to the claim of the representatives of the American commercial house of Alsop & Co., hoping it will not be considered inopportune by the undersigned.

Y. E. refers to your communication of September 30, 1890, in which this claim is No. 2 among those mentioned in said note, under the name of the late John Wheelwright, liquidator of the said house of Alsop & Co., asking the payment of a sum amounting to 835,000 Bolivian pesos with an annual interest of 5 per cent from 1876.

Y. E. states that this debt was solemnly ratified by the Government of Bolivia in the form mentioned and that, as a consequence of the occupation of Tacna and Arica by the Chilean forces, the agreement celebrated with Bolivia "was arbitrarily set aside by the Government of Chile."

Y. E. adds some data relating to the matter, the settlement of which Y. E. has been pleased to state the Government of Y. E. has several times postponed out of considerations of friendship for the Government and people of Chile, and closes asking the Government of Chile to take the claim into consideration in whatever arrangement may be celebrated with Bolivia.

In reply I have the pleasure to inform Y. E. that in the preliminary protocol of a treaty of peace between Chile and Bolivia, ratified by the undersigned in the city of Iquique, as minister of foreign relations of the constitutional Government, the claim of Alsop & Co., which Y. E. has supported, for the sum indicated by Y. E. (835,000 Bolivian pesos), figured among the liabilities that the Government of Chile engaged to pay for account of Bolivia.

Regarding the payment of interest to which Y. E. refers, the Government of the undersigned awaits what may be done in the negotiations that are to follow by the Government that recognized the principal obligation; the Government of Chile, which only assumed the obligations of a neighboring and friendly country, will endeavor to attend to this part of the claim once the Government of Bolivia pronounces upon its legitimacy or validity, confining myself, as a proof of deference to the Government of Y. E., to offering the assurance that I will carefully take into account the resolution that may be adopted by the Government of Bolivia in relation to this point.

Upon forwarding what has already been stated the undersigned is pleased that in the protocol celebrated in Iquique in May, 1891, the Government of Chile had already taken into account the matter referred to in the esteemed communication of Y. E. to which I have the honor to reply.

I avail myself of the opportunity, Mr. Minister, to offer to Y. E. the assurance of my high consideration.

ISIDORO ERRAZURIZ.

Under date of June 22, 1892, the minister of the United States to Chile reported to his Government that he had forwarded to the minister of foreign affairs for Chile—

particulars of the contracts entered into by the Government of Bolivia and reduced to public record in La Paz, the 26th December, 1876, recognizing this interest (the interest upon the debt due under the Alsop contract) in the same way as the principal debt, which the subsecretary of foreign relations assured me would be entirely satisfactory.

Three years later, under date of June 22, 1895, Mr. Stroebel, who had then become the minister of the United States, reported to the

Department of State a conversation between himself and Señor Gutierrez, the Bolivian minister at Santiago, in which Mr. Stroebel—called his attention to the note of Señor Errazuriz (of June 18, 1892) and inquired whether provision had been made for the payment of the claim as promised in that note. * * * The Bolivian minister, however, informed me that the payment of a number of claims had been provided for (in the treaties pending between Chile and Bolivia) and that among these the claim of Alsop & Co. was explicitly mentioned and that the amount fixed in settlement was 835,000 bolivianos, the same as stated in the note of Señor Errazuriz, referred to above.

Under date of October 10, 1896, Mr. Stroebel made the following report to the Department of State:

SIR: In reply to the department's No. 99 of August 10 last, inclosing a letter from the Hon. G. S. Boutwell, and instructing me to ascertain from the Government of Chile the proposed date of settlement of the claim of Alsop & Co., and whether by a treaty or by an understanding between the Governments of Chile and Bolivia the amount to be paid had been fixed, I have the honor to report that yesterday I had a conversation on the subject with Señor Eduardo Phillips, the under secretary of foreign relations, who gave me the following information:

On May 28, 1895, a protocol, supplementary to the treaties between Chile and Bolivia forwarded to the department with my No. 85 of May 6 last, was signed. This protocol was approved by the Chilean Congress, in secret session, but is still awaiting the approval of the Congress of Bolivia, and has, therefore, not been published. It has an important bearing upon the claims assumed by the Chilean Government, in accordance with the provisions of article 2 of the treaty of peace and amity of May 18, 1895.

According to the memorandum presented by the Bolivian minister at this capital, which is regarded as part of the protocol, the amount proposed as a settlement of the claim of Alsop & Co. is, without calculating interest (sin computar intereses) 835,000 bolivianos of 20 pence, or 954,285 Chilean pesos.

By article 3 of the protocol the Government of Chile, in order to settle the definite amounts to be paid, shall take into account the origin of the claims allowed (el origen de cada credito) as well as the data furnished by the Bolivian minister in his memorandum.

It is hoped that the protocol will be approved by the Bolivian Congress, which is now in session, in a few weeks. The Chilean Government can not take up the question of the payment of the claims until this protocol has been approved and promulgated.

On receiving the above information I inquired of Señor Phillips whether it was to be understood that the terms of article 3 of the protocol gave to his Government the right of making a reexamination of the claims; and I stated that if this was the case it was contrary to the impression existing in the minds of the claimants as well as to my own understanding of the matter. He replied that, in view of the large amounts to be paid, it was natural that his Government should desire to examine the papers on which the claims were based; but that he thought that as soon as the protocol was approved and promulgated there would be no disposition to delay a settlement.

The Bolivian minister here, Señor Gutierrez, whom I saw this afternoon and with whom I spoke upon the subject, also seemed to be of this opinion.

As soon as the protocol is approved by the Bolivian Congress, I will again call the attention of the Chilean foreign office to the claim, with a view to obtaining some more definite assurance regarding payment.

It will be seen from the above narration of facts and correspondence that from 1884 to 1890 the Government of the United States, relying upon assurances of the Government of Chile that all equitable claims against the Government of Chile would in due time be met, and deferring to the expressed desire of that Government that the United States should postpone a settlement of the claims of its citizens until Chile should have been able to settle with her European claimants, refrained from pressing upon the attention of the Government of Chile the just claims of American citizens. It will, moreover, be observed that in June, 1892, as the result of representations made by the minister of the United States at Santiago, the Government of Chile definitely promised to pay both the principal and the interest of

the debt, as provided for in the contract. This promise to settle the claim was renewed in an assurance given to the minister of the United States in 1896.

There was, at the time of the making of these claims and representations, no question raised as to the legality of the contract, the amount of the claim, nor the obligation of the Government of Chile to pay the same upon the completion of the treaty arrangements with the Government of Bolivia; and the promises thus definitely made were conditioned only upon the negotiation of these treaties, which has been long since effected.

But the undertaking of the Government of Chile to pay this Bolivian debt appears no less clearly in the various treaties and protocols which from time to time have been negotiated and signed by the Governments of Bolivia and of Chile. In the protocol of May 19, 1891, between Chile and Bolivia, it is provided in article 2:

The Government of Chile will take charge of and assume the payment of the obligations recognized by that of Bolivia in favor of the mineral enterprises of Huanchaca or Corocoro and Oruro, deducting the amounts in accordance with the compact of truce, as well as the credits which encumbered the income from the littoral by reason thereof and which are that of * * * the credit acknowledged in favor of Lopez Gama, representing the house of Alsop & Co., of Valparaiso. * * *

Article 3 of the same protocol provided that the sums which make up the credits, referred to above as taken from the books of the national treasurer of Bolivia, are as follows:

*	*	*	*	*	*	*
"Lopez Gama credit \$835,000."						
*	*	*	*	*	*	*

The sums approximated are considered without interest; and, with which, according to the liquidation made, reach the amount of 6,604,000 pesos."

This statement, when taken in connection with that which was made by the Chilean subsecretary of foreign affairs, to the minister of the United States, when, in June, 1892, the latter submitted to the former the contract of December 26, 1876, recognizing the interest due upon the Alsop contract, clearly shows that at this time the Government of Chile acknowledged as due, not only the principal sum called for by the Wheelwright contract of 1876, but the interest due under said contract as well.

Further, on May 18, 1895, there was signed at Santiago a treaty of peace and friendship between the Governments of Bolivia and of Chile. It was provided in article 2 of this treaty that—

it (the Government of Chile) binds itself furthermore to pay the following debts which encumbered the Bolivian Littoral, namely: * * * The credit of Don Pedro Lopez Gama, now represented by the firm of Alsop & Co., of Valparaiso.

And again in a supplementary protocol signed at Santiago on May 28, 1895, it was provided in article 3 that—

those credits which are not included in the declaration aforesaid and which are those of * * * Pedro Lopez Gama * * * shall be examined by the Government of Chile, which Government, in order to fix the definite amount due, and to agree as to the form of payment thereof, will take into account the origin of each credit, and also the antecedents of the same consigned by the minister of Bolivia in Chile in his memorandum of the 23d of the present month.

In a protocol between the Republics of Chile and Bolivia, signed at Santiago April 30, 1896, explanatory of the protocol of the 9th of December, 1895, the above arrangement for the liquidation of

the debts therein named was recognized and there was imposed upon the Government of Bolivia the duty of submitting for the approval of the Congress of that Republic the protocol of May 28, 1895.

And finally on October 20, 1904, the Governments of Chile and of Bolivia entered into a general treaty, article 5 of which provides as follows:

* * * and the sum of 2,000,000 pesos in gold of 18 pence in the the same form as the preceding for the cancellation of the credits arising from the following obligations of Bolivia: * * * the debt recognized to Don Pedro Lopez Gama, represented by Messrs. Alsop & Co.; subrogates of the former's rights. * * *

Regarding the extent to which the Government of Chile had by this undertaking obligated herself to meet Bolivia's debts it appears, as his excellency the minister of foreign affairs for Chile is aware, that the Government of Bolivia, fearing that some doubt might in the future arise, set forth its understanding of the undertaking of the Government of Chile in the following note:

LEGATION OF BOLIVIA,
Santiago, October 21, 1904.

MR. MINISTER: The Government of Bolivia agrees with your excellency's Government on the necessity of determining the purport of the wording of article 5 of the treaty of peace and friendship signed to-day by your excellency on behalf of the Government of Chile and by the undersigned in representation of the Government of Bolivia.

Both in regard to the claims of the Corocoro, Huanchaca, and Oruro Companies and of the bondholders of the Bolivian loan of 1867 which were being paid out of 40 per cent of the receipts of the Arica customhouse, and in regard to the claims against Bolivia of the bondholders of the Mejillones Railroad, of Alsop & Co. (assignees of Pedro Lopez Gama), of the estate of Juan Garday, and of Edward Squire (representing the rights of John C. Meiggs), it has been agreed that the Government of Chile shall permanently cancel all of them, so that Bolivia shall be relieved of all liability, the Government of Chile being obligated to answer every subsequent claim presented either by private means or through diplomatic channels, and considering itself liable for every obligation, bond, or document of the Government of Bolivia relating to any of the claims enumerated, Bolivia's liability being entirely eliminated for all time and the Government of Chile assuming all liabilities to their full extent.

My Government desires that your excellency may be pleased to state to me, on behalf of the Government of Chile, whether this is the purport which it has given to article 5 of the treaty of peace and friendship signed to-day between the representatives of the two Governments.

I avail myself of this opportunity to renew to your excellency the assurances of my high and distinguished consideration.

(Signed) A. GUTIERREZ.

To His Excellency Dr. EMILIO BELLO C.,
Minister of Foreign Relations, City.

To this the representative of the Government of Chile replied as follows:

No. 1008.]

REPUBLIC OF CHILE,
MINISTER OF FOREIGN RELATIONS,
Santiago, October 21, 1904.

MR. MINISTER: In reply to the note which your excellency addressed to me on this day I take pleasure, in compliance with your request, in defining the purport which this chancellery assigns to clause 5 of the treaty of peace and friendship signed to-day by your excellency in representation of the Government of Bolivia and by the undersigned on behalf of the Government of Chile.

My Government considers that the obligation which Chile contracts by article 5 of the said treaty comprises that of arranging directly, with the two groups of creditors recognized by Bolivia, for the permanent cancellation of each of the claims mentioned in said article, thus relieving Bolivia of all subsequent liabilities.

It is consequently understood that Chile, as assignee of all the obligations and rights which might be incumbent on or pertain to Bolivia in connection with these claims, shall answer any reclamation which may be presented to your excellency's Government by any of the parties interested in the said claims.

I renew to your excellency the assurances of my highest and most distinguished consideration.

(Signed)

EMILIO BELLO C.

To his excellency Mr. ALBERTO GUTIERREZ,

E. E. and M. P. of Bolivia.

These notes seem clearly to establish that, although if read alone, the treaty provisions might perhaps be construed to place a limitation upon the amount which the Government of Chile was to pay upon the debts recognized as existing against the Government of Bolivia, yet that in reality the Government of Chile obligated itself to pay the entire amount which should be found due upon these debts, irrespective of the question as to whether or not it was able to do so from the sum specifically named in the treaty.

It would thus appear that the Republic of Chile has repeatedly obligated itself to the Government of Bolivia to pay the Alsop debt—a debt which the Governments of both of these Republics have again and again recognized in these protocols as a valid and existing obligation. This obligation of payment was first assumed in express words by the Government of Chile in the protocol of May 19, 1891, in which not only was the principal of the debt as specified in the Wheelwright contract named, but the interest which it was to draw recognized. The obligation was expressly renewed by the Government of Chile in the treaty of peace and friendship signed at Santiago on May 18, 1895, and this was reaffirmed in the supplementary protocol signed in Santiago between the same parties on May 28, 1895. Subsequently, on December 9, 1895, the obligations recognized in the preceding treaties were by express terms again reaffirmed. Finally, on October 20, 1904, the Republic of Chile in a general treaty again assumed the obligation to pay the Alsop claim; and while the treaty itself specified a lump sum from which the indebtedness was to be met, thus perhaps lending some color to a suggestion that there might be a reduction from the full value of the claim, with interest, yet the aforesaid secret notes exchanged at the same time specifically provided that the obligation of the Government of Chile was full and complete, as to whatever sum should be found due upon the debts which that Government assumed to pay.

But not only has the Government of Chile thus promised diplomatically as between the United States and the Republic of Chile to pay the sum called for by the formal contract of 1876, between John Wheelwright and the Government of Bolivia; and not only has the Government of Chile repeatedly obligated itself in formal and solemn treaties negotiated between the Governments of Chile and of Bolivia to pay this debt, but that Government has renewed and affirmed this undertaking in a most formal promise made to a high international tribunal.

In the course of the arguments before the second United States-Chilean Claims Commission in 1901, the present minister of Chile to the United States, acting then as agent and counsel for Chile, conjointly with the Hon. Edward H. Stroebel, formerly accredited by the Government of the United States as its minister near the

Government of Chile (during which time, as has already been pointed out, he carried on certain diplomatic correspondence concerning this claim) the latter in his capacity as special counsel, made the following declaration to the Alsop claimants and to the commissioners in regard to this claim:

As is stated in the claimant's brief, it is among the liabilities that the Government of Chile engaged to pay for the account of Bolivia. This explains exactly the situation of the claim. The Chilean Government has always regarded it, and does still regard it, as a liability on the part of Bolivia, toward the claimant; and in order to induce the Bolivian Government to sign the definite treaty of peace which has been negotiated for many years, the Chilean Government offers to meet this and other claims, as part of the payment or consideration which it offers to Bolivia for the signature of the treaty. This has always been the position of the Chilean Government, and is its position to-day, and if Bolivia signs the treaty, the claim of Alsop & Co., as well as the other claims mentioned, will be promptly paid under the treaty engagement as a relief to Bolivia from the liabilities which that Government has incurred and for the account of Bolivia.

After a careful consideration of the purely technical defense offered at that time, a majority of the commission—that is, the commissioner for the Republic of Chile and the umpire—decided that, under the protocol of submission, the commission was authorized to consider merely the claims of "citizens of the United States," and that therefore they could not consider this claim upon its merits. In dismissing the case, however, these same members of the commission said:

By this conclusion it is not denied that certain cases may arise (like the Cerruti case) in which redress may justly be granted by means of diplomatic intervention to an individual member of a society for injury to the partnership property. The demurrer is sustained wholly upon the ground that Alsop & Co., in liquidation, being a citizen of Chile, this commission, under Article I of the convention of 1892, has no jurisdiction to entertain the claim. The case is dismissed, therefore, without prejudice, however, to any rights which the claimant, or claimants, or Alsop & Co., or its liquidator may have, either by diplomatic intervention or before the Government of Chile, or the courts of Chile. Nor are the merits of the claim in any way prejudiced by this decision. According to the brief of the honorable agent of Chile, it is declared that this claim "is among the liabilities that the Government of Chile engage to pay for the account of Bolivia. * * * The Chilean Government has always regarded it, and does still regard it, as a liability on the part of Bolivia toward the claimant; and in order to induce the Bolivian Government to sign the definite treaty of peace, which have been negotiated for many years, the Chilean Government offers to meet this and other claims as part of the payment or consideration which it offers to Bolivia for the signature of the treaty. This has always been the position of the Chilean Government, and is its position to-day, and if Bolivia signs the treaty, the claim of Alsop & Co., as well as the other claims mentioned, will be promptly paid under the treaty engagement, as a relief to Bolivia from the liabilities which that Government has incurred and for the account of Bolivia."

The claimant is, therefore, remitted for relief to the Government of Chile, whose assurances are thus given, and the case is dismissed.

Thus it is seen, the undersigned submits, that Chile has by repeated diplomatic promise, by solemn treaty obligation, and lastly by formal assurance given by the agent and the special counsel of the Government of Chile before a high international tribunal and incorporated by the commissioners in their decision, again and again obligated itself to satisfy this Alsop debt.

To meet the obligation thus repeatedly and voluntarily assumed, the Government of Chile offered in settlement, in December, 1903, through the minister of the United States at Santiago, 954,285 Chilean dollars of 18 pence, or about \$343,542 American money. His excellency the minister of foreign affairs of Chile will permit it to be

pointed out that the value of the mere principal of the debt, without interest, amounted to \$805,775 American gold, while the interest due under the contract, at the time this offer was made, would amount to a further sum of \$1,087,796.25, the two sums due, at that time, totaling \$1,893,571.25; and that this does not take into consideration the amount still due upon the \$232,275.50 American gold which the contract recognized as interest due at the date of its making. As the minister for foreign affairs of Chile is aware, this offer was declined by the claimants, and the Department of State of the United States pronounced the proposal as not in accordance with the equity of the claimants.

As the result of the renewed representations of the Government of the United States, the Government of Chile in December, 1904, made a second offer of settlement, this time, however, offering but 524,333 Chilean dollars, equivalent to about \$190,647 American gold. At the time this offer was made, the value of the debt, principal and interest, had been increased from the figure last given by \$40,288.75. The Department of State of the United States having already characterized as inequitable an earlier offer which was, almost as large again as this second offer, at once declined to accept the proposed sum, stating that the amount offered "appears to be disproportionate to the claimant's equity." The Government of Chile was invited to make a further offer.

On August 1, 1907, the Government of Chile made a third proposition in settlement of the claim, this time offering 568,192 Chilean dollars, equal to about \$200,000 American gold. At the time of this offer, the debt, principal and interest, exclusive of the original interest acknowledged as due by the contract itself amounted to \$2,287,481.25. Obviously the Department of State could not, and it did not, consider this proposed settlement as satisfactory and so informed the Government of Chile. Notwithstanding this, the last offer was renewed by the Government of Chile in April, 1908.

Moved to feel by these persistent offers of a sum apparently so inadequate to the equities of the claimants under their contract, that perhaps the Government of Chile was in possession of facts which the Government of the United States was ignorant and which would justify the reduction proposed by the Government of Chile, and taking advantage of the kindly offer of the Chilean legation at Washington, in its note of July 31, 1908 (transmitting a copy of the note of the minister of foreign affairs of Chile to the minister of the United States at Santiago) to furnish to the Department of State antecedents and information regarding the case, the Department of State, under date of August 29, 1908, requested the minister of the Republic of Chile at Washington to furnish to that department "copies of the documents and statements of the evidence which your (the Chilean) Government regards as justifying the reduction which it proposes." In making this request the Department of State indicated that it did so because it was animated by a desire to make as to the matter of the settlement of this claim no request which equity and justice did not support. No reply having been received by it to this note, the Department of State repeated its request on November 24, 1908. On November 26, 1908, the minister of the Republic of Chile at Washington stated that he had informed his Government of the request and that he would communicate with the Department

of State upon receiving the documents asked for. On January 24, 1909, the Department of State, still not having received the documents promised, instructed the minister of the United States at Santiago, by cable, to inform the Government of Chile that the Department of State, being most desirous of reaching a fair and equitable determination upon this whole matter, awaited the antecedents mentioned by the minister of Chile and requested by the Department of State. On February 26, 1909, the minister of the United States at Santiago cabled the Department of State that he had received a reply from the office of foreign affairs of the Government of Chile in which it was stated that the antecedents called for by the Department of State had on the same date been sent to the minister of Chile at Washington. On March 18 the Department of State communicated the substance of this telegram to the minister of Chile at Washington and requested that he forward to it at his earliest convenience the documents which his Government was then forwarding to him. This note the minister of Chile acknowledged under date of March 19, and assured the Department of State that he would hasten to transmit to it whatever information he might receive bearing upon the subject. Nothing having been heard in the meanwhile, and the evidence which the Chilean foreign office stated had been forwarded to the legation of Chile at Washington not having been received, the Secretary of State of the United States on April 15 took up the matter personally with the minister of Chile at Washington. In the course of an interview which followed, the minister of Chile stated that the Government of Chile had no evidence such as that called for—that is, evidence going to show that the amount due under the contract was not really due the claimants—and that to justify its reduction the Government of Chile relied upon the fact that the sums specified in the treaty between the Governments of Chile and of Bolivia for the settlement of this and other claims was not sufficient to meet in full the demands of all the claimants, and that the amount offered Alsop & Co. was its pro rata share of the sums so stipulated to be paid. It would thus appear from this correspondence and from this statement made orally by the minister of Chile at Washington that the Government of Chile has no evidence going to show that the amount called for, principal and interest, by the contract between John Wheelwright as liquidator for Alsop & Co. and the Government of Bolivia is not legally and equitably due the claimants.

In this connection the undersigned is directed to declare that in the mind of the Government of the United States there is no doubt that the Government of Chile is legally bound to pay this debt due Alsop & Co., and that to the Government of the United States it seems clear that the various promises and undertakings of the Government of Chile to the Government of the United States to pay this claim are of such a character as would, if made between two private parties, constitute a valid and existing contract not only under the rules of common law in force in the United States, but also under the provisions of the civil law as it exists under the Government of Chile; and this being so, the Government of the United States considers that these promises and undertakings create an obligation as between the Government of Chile and the Government of the United States. That the various transactions constitute a contract under the technical

principles of the common law appears evident, because the promise given by the Government of Chile was based upon ample consideration, that is, the promised and long-continued forbearance of the Government of the United States to press upon the attention of the Government of Chile the settlement of this and other claims, predicated as it was upon the promise of the Chilean minister of foreign affairs that upon the happening of certain events the Government of Chile would honorably settle all such claims. Moreover, under the doctrines of the common law which empower a beneficiary to sue upon a contract made for his interest and benefit, it would appear that as the result of the repeated undertakings between the Government of Bolivia and the Government of Chile Alsop & Co. has acquired certain rights against the Government of Chile which the Government of the United States may well request the Government of Chile to observe.

And not only do these transactions thus constitute a contract within the meaning of the common law, but they are clearly such as would raise an obligation under the provisions of the civil law, and more specifically under the provisions of the Chilean code, which expressly recognizes the validity of such promises where the parties making them have legal capacity and the motive inducing the contract is not illegal. It appears no less certain that under Chilean law the various treaty obligations between the Government of Chile and the Government of Bolivia also give to Alsop & Co. certain rights as beneficiaries, of which the Government of the United States may, if it sees fit, take advantage.

Thus, that under the various promises made by the Government of Chile to the Government of the United States, the obligation of the Government of Chile to pay the Alsop claim is full and complete, even when tested by the rigorous technicalities of the private law of both countries, can admit of but little doubt. But even if it should be contended that the obligation is, under the private law of the two countries, not as complete as has been contended, still every doubt as to the extent of the obligation disappears and the undertaking becomes clearly perfect when it is considered, as it must be, that the repeated promises, set forth above, upon which reliance in this case is placed, are the promises freely and spontaneously made by one sovereign State to another, the latter placing thereon full and complete reliance. Such a promise by which the faith of a nation is pledged demands that it be not disregarded or evaded, and that it be squarely met and fully discharged. To consider otherwise the promise of a sovereign nation would be to deprive international obligations of that dignity and sacredness which are absolutely essential to the continued maintenance of those feelings of mutual respect and confidence which must of necessity exist between two friendly and independent States desiring to continue in their friendly relations and intercourse.

In this connection the undersigned begs to invite attention to the note, dated April 9, 1908, addressed by the minister of foreign affairs of Chile to the minister of the United States at Santiago, in which the following language was used:

At the same time, in order to obviate any doubts as to the scope and nature of these negotiations (and this is a point to which my Government ascribes special importance), it deemed it necessary to observe to the chargé d'affaires that, in view of the fact that the court of arbitration at Washington had declared Alsop & Co. to be a Chilean corporation, it could not assign any other character to the steps taken by said legation in

this matter than that of a "simple conciliatory exercise of good offices (injerencial)", undertaken for the purpose of bringing about the agreement which was sought in order to terminate the matter within the limitations of clause 5 of the treaty of peace.

The Government of the United States has been at some loss to understand precisely the meaning which this expression of the Government of Chile is intended to convey, and has found itself unwilling to believe that the suggestion which may be gathered from the mere language itself is the meaning which the Government of Chile desired to express.

It is indeed true that Alsop & Co., in order that it might do business in Chile, registered under the Chilean law, and in this sense became a Chilean partnership; but it should be remembered that the partners were all American citizens, that they were investing in their enterprise American capital, that the losses suffered have fallen upon American citizens, and that such losses have involved the destruction of American capital and enterprise. Moreover, it should also be recalled that the partnership has long since ceased to do business in Chile, and that it has, so far as was possible, wound up its partnership affairs. It has, as a practical matter, ceased to exist. To contest the right of the Government of the United States to intervene in behalf of the injured American partners in such a partnership, under such conditions, for the loss of American capital, would be to contest the fundamental sovereign right of the Government of the United States to intervene in behalf of its citizens—a proposition for which the Government of Chile would not, the Government of the United States feels, for a moment contend.

The Government of the United States has in the past asserted its rights to intervene in behalf of its citizens who occupied, with reference to foreign corporations, positions analogous to that held by the partners in this case, as is particularly and precisely illustrated by the famous MacMurdo or Delagoa Bay case in which the Government of the United States joined with the Government of Great Britain in intervening in behalf of American and British stockholders in a Portuguese corporation. Moreover, the famous Cerruti case, to which a majority of the members of the United States-Chilean Claims Commission, in dismissing the Alsop claim without prejudice, referred, and with the justice and equity of the determination of which the same commissioners agreed, seems squarely in point. That case, like the present, was a case in which there was an intervention on behalf of a national in a foreign partnership firm. Concerning this case the Chilean commissioner and the umpire said:

At first objection was made by Colombia to the effect that E. Cerruti & Co. being a society en commandita simple, having a juridicial entity, was, in fact, a Colombian citizen, and therefore that no indemnity could be demanded by Cerruti personally for damages sustained by the property of Cerruti & Co. This position was practically abandoned, for Colombia had, in equity at least, forfeited the right to such a position by injuring Cerruti, for political and individual reasons, not only in all his private interests but also in all his interests in the partnership property as well.

These precedents would justify, if indeed precedents were needed, the Government of the United States in intervening in behalf of the American partners of Alsop & Co. This is peculiarly true since this case, like the Cerruti case, has, as it was expressed by the commissioners, been one "in which the preliminary questions have been discussed for years," during which time, it should be remarked,

the Government of Chile never made or even suggested any objection to the various intercessions of the Government of the United States in behalf of these American citizens, but on the other hand, acquiesced in and recognized the right of the Government of the United States to present to the Government of Chile for settlement this claim which the Government of the United States again finds it necessary to urge upon the attention of his excellency the minister of foreign affairs for Chile.

Thus is the liability of the Government of Chile shown upon the Wheelwright contract.

But not only have the claimants suffered great injury because of their inability to collect the amount due them under the Wheelwright contract, but they have also, as stated above, suffered great injury because of the application of the Chilean mining law to the Bolivian littoral. In connection with this point the minister of foreign affairs of Chile will recall that the contract between Wheelwright and the Government of Bolivia provided for the leasing to Wheelwright of the Government estacas located in the Bolivian littoral. The lessee's interest under this contract was absolute, was entirely independent of the debt due from Alsop & Co., and under the Bolivian law no obligation existed on Alsop & Co. to perform any stated amount of work upon these estacas in order that title thereto might be unimpaired. However, upon the taking of the littoral, the Government of Chile applied to these estacas, thus held absolutely in leasehold by Alsop & Co. from the Government of Bolivia, the provisions of Chilean law, which, among other things, differed from the Bolivian law as to the manner in which the estacas must be chosen, as well as in requiring that a certain amount of assessment work should be carried on each year in order that title thereto might be retained. The application of these provisions of the Chilean law inflicted two sorts of injuries upon the claimants. In the first place it deprived Alsop & Co. of certain estacas as to which their lease was perfect under the Bolivian law, but which was imperfect (at least so declared the courts and the Executive of Chile) under the provisions of the Chilean law. In the next place it required, contrary to the Bolivian law, that Alsop & Co. should do a certain amount of work each year upon each estaca in order to retain it; and this, the claimants allege, has necessitated the expenditure of very large sums of money in order that they might retain the title to mines which at the moment they were not prepared systematically to exploit. These questions were tested in the Chilean courts, which decided that the Chilean law applied. The authorities of the Chilean Executive were then appealed to, but they stated that no relief could be given by the Executive, the matter being one for the jurisdiction of the Chilean courts.

As early as 1886 the claimants brought this matter to the attention of the Government of the United States, at which time the Secretary of State of the United States, Mr. Bayard, commenting upon the matter, laid down the law as follows:

As to his claim for redress for the wrongs which the present memorial narrates, I have also little doubt. The immense interests he held, in 1879, in his representative as well as individual capacity, under Bolivian laws, were virtually confiscated, under form of a judicial decision, by the Government of Chile in 1882. Were this confiscation put on grounds of municipal law, or of revolt against municipal authority, it might be argued that the decision is one as to which we can not sit in appeal. But the de-

cision rests on an alleged rule of international law which, assumed as it now is by the Government of Chile, becomes a proper matter of discussion between ourselves and that Government. It is asserted by the Government of Chile (for, in international relations and the maintenance of international duties, the action of the judiciary in Chile is to be treated when assumed by the Government as the act of the Government) that a sovereign, when occupying a conquered territory, has, by international law, the right to test titles acquired under his predecessor by applying to them his own municipal law, and not the municipal law of his predecessor under which they vested. The true principle, however, is expressed in the following passage cited in the memorialist's brief:

"But the right of conquest can not affect the property of private persons; war being only a relation of State to State, it follows that one of the belligerents who makes conquests in the territory of the other can not acquire more rights than the one for whom he is substituted; and that thus, as the invaded or conquered State did not possess any right over private property, so also the invader or conqueror can not legitimately exercise any right over that property. Such is to-day the public law of Europe, whose nations have corrected the barbarism of ancient practices, which placed private as well as public property under military law." (C. Masse, *Rapports du droit des gens avec le droit civil*, Vol. I, p. 123, secs. 148-149.)

This doctrine has frequently been acted on in the United States. Thus it has been held by the Supreme Court that when New Mexico was conquered by the United States it was only the allegiance of the people that was changed; their relation to each other, and their rights of property, remained undisturbed (*Leitensdorfer v. Webb*, 20 How., 176). The same has been held as to California. The rights acquired under the prior Mexican and Spanish law, so it was decided, were "consecrated by the law of nations." (*U. S. v. Moreno*, 1 Wall., 460; see *U. S. v. Augisola*, 1 Wall., 352; *Townsend v. Greeley*, 5 Wall., 326; *Dent v. Emmeger*, 14 Wall., 308; *Airhart v. Massieu*, 98 U. S., 491; *Mutual Assurance Soc. v. Watts*, 1 Wheat, 279; *Delassus v. U. S.*, 9 Peters, 117; *Mitchell v. U. S.*, 12 Peters, 410; *U. S. v. Repentigny*, 5 Wall., 211.)

The Government of the United States therefore holds that titles derived from a duly constituted prior foreign government to which it has succeeded are "consecrated by the law of nations" even as against the titles claimed under its own subsequent laws. The rights of a resident neutral having become fixed and vested by the law of the country can not be denied or injuriously affected by a change in the sovereignty or public control of that country by transfer to another government. His remedies may be affected by the change of sovereignty but his rights at the time of change must be measured and determined by the law under which he acquired them. War is between States, and forms of government may thus be changed and laws are forms of government, but can not act retroactively to destroy neutral rights. The Government of the United States is therefore prepared to insist on the continued validity of such titles, as held by citizens of the United States, when attacked by foreign governments succeeding that by which they were granted. Title to land and landed improvements is, by the law of nations, a continuous right, not subject to be divested by any retroactive legislation of new governments taking the place of that by which such title was lawfully granted. Of course it is not intended here to deny the prerogative of a conqueror to confiscate for political offenses, or to withdraw franchises which by the law of nations can be withdrawn by governments for the time being. Such prerogatives have been conceded by the United States as well as by other members of the family of nations by which international law is constituted. What, however, is here denied, is the right of any government to declare titles lawfully granted by its predecessor to be vacated because they could not have been lawfully granted if its own law had, at the time in question, prevailed. This pretension strikes at that principle of historical municipal continuity of governments which is at the basis of international law, holding as I do that the action of the Government of Chile here complained of, by which citizens of the United States have been divested of their property, is in violation of this principle.

The Government of the United States still maintains this opinion. It must, therefore, regard the action of the Government of Chile in applying to the holdings of Alsop & Co. in the Bolivian littoral the provisions of the Chilean law, which derogated so greatly from the rights enjoyed by and the obligations imposed upon Alsop & Co. by the law of Bolivia, as wholly unwarranted by the rules of international law, and therefore as affording a just ground for a demand for damages in favor of Alsop & Co.

The undersigned is further instructed to say to his excellency the minister of foreign affairs of Chile that, in view of the jurisdictional facts of this case thus fully set forth, which facts stand not only uncontroverted and unimpeached, but admitted by the Governments of Bolivia and Chile, and in view of the well-founded liability of the Government of Chile to settle this claim in accordance with the numerous promises and undertakings made and given by that Government, the Government of the United States confidently expects that the Government of Chile will at once either make such a settlement on this controversy as shall comport with the equity of the claimants and with the dignity and the international integrity of Chile, or, as has been suggested by the Government of Chile, immediately agree with the Government of the United States upon a protocol submitting the entire controversy to an arbitral tribunal, for a decision upon the merits, in accordance with the broad principles of equity and international law; though it should be understood at the same time, that the Government of the United States feels most deeply that the added expense and delay which this latter course will entail upon the claimants are, under the existing circumstances, without warrant and not to be justified.

In the event that the Government of Chile elects to arbitrate rather than to settle this claim in accordance with the many promises and undertakings as above set forth, the undersigned, on behalf of the Government of the United States, proposes the following protocol of submission¹ to conclude which the undersigned is duly and fully authorized.

In conclusion the undersigned begs to state that he can not entertain a doubt but that when the Government of Chile shall have fully considered this claim of Alsop & Co. broadly upon its merits, as above set forth, that Government will be convinced that the principles of equity, justice, and international law demand as to this long-standing and vexatious controversy, a prompt settlement that shall accord with the views of the Government of the United States which the undersigned now has the honor again to present.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, avails himself of this opportunity to renew to his excellency the minister of foreign affairs the assurance of his most distinguished consideration.

I am, etc.,

P. C. KNOX.

The Minister of Foreign Affairs to Minister Dawson.

[Translation.]

REPUBLIC OF CHILE,
MINISTRY OF FOREIGN AFFAIRS,
Santiago, October 15, 1909.²

MR. MINISTER: Your note of September 17, 1909, has been received at this office. In it you state that, in compliance with instructions received, you must again call the attention of the Government of Chile to the claim of Alsop & Co., and that you hope that this Govern-

¹ Not printed. See protocol as finally signed.

² This note, though dated as above, was not actually delivered until Nov. 27, 1909.

ment, animated by a spirit of sincere justice, will accept one of the two propositions that you present, in the name of your Government, in order to put an end to this claim which is a disturbing factor in the good relations between the two Governments.

To justify these propositions, in compliance with instructions from the Department of State, you state the facts and rights which, in the estimation of your Government, support the claim of Alsop & Co. and establish the obligation of the Government of Chile to settle it as soon as possible.

My honorable predecessor, the Hon. Federico Puga Borne, sent a note, dated March 9, 1908, to your predecessor, the Hon. John Hicks, in which he set out the antecedents and cited different cases and diplomatic precedents which justified the attitude of the Government of Chile in denying her responsibility in the Alsop claim in the terms in which your Government presented it. And because a legal claim and one merely pecuniary was in no way a hindrance to the good and friendly relations that my country had cultivated with yours and sincerely desired to continue cultivating, Señor Puga Borne, in the above-mentioned note of March 9, proposed that, on account of the different views of the two Governments, the solution of the Alsop claim should be submitted to arbitration.

It is indeed gratifying to this department to know that your Government has accepted the proposition to have the question decided by arbitration.

Since this Government is striving to maintain the traditional cordial relations that have always existed between Chile and the United States, I should inform you, in answer to your note of September 17, that in the opinion of the undersigned, the best manner of proving that the discussion about the Alsop claim can be settled by arbitration, is to review rapidly the estimation that our Governments have of the said claim, according to the note of this ministry of March 9, 1908, and the notes of your legation of June 27, 1907,¹ and September 17,² of this year.

I do not believe it necessary, at present, to discuss the antecedents of the claim of Alsop & Co., since this point is very widely known and does not in any way directly affect the controversy that has arisen.

On the contrary, I judge that there is manifest interest in explaining the reasons that your Government sets up for supporting, through diplomatic channels, a credit of private parties against Bolivia, and for claiming that our country is obliged to pay it, for these are the fundamental points from which the difference arises between the two Governments.

Your Government maintains that the representatives of the firm of Alsop & Co. are citizens of the United States, and consequently have a right to the diplomatic protection of that country.

The Department of State believes that the time has come to offer this protection, basing it on the fact that the Government of Chile, on taking possession of the territory of Bolivia, injured, by the application of the Chilean law in that region, the guarantees that the Government of Bolivia had given in favor of the credit

¹ Instruction No. 60, Apr. 30, 1907, to Minister Hicks, p. 138.

² Instruction No. 5, Aug. 5, 1909, to Minister Dawson, p. 159.

of Alsop & Co. This firm, you state, took measures before the Government and courts of Chile in order to save its rights, and since they did not receive satisfaction appealed to the department, which after examining the affair, declared that the proceeding of the Government and courts of Chile was contrary to the principles of international law and amounted to confiscation of property.

According to your Government, the obligation of my country to cancel entirely the credit of Alsop & Co., has a double foundation. On the one hand, the fact that the guarantees which the Government of Bolivia had given by the agreement of December 26, 1876, to insure the said credit, became vain, because the property on which they were given came into possession of Chile as a result of the war with Bolivia, and your Government believes that in conformity to the general principles of international law our country should respect those guarantees; and on the other hand, the fact that the Government of Chile has recognized on repeated occasions the obligation that it has to pay this sum, principally in the projects of protocols concluded between Chile and Bolivia, in repeated promises made by my country to your Government that this credit would be duly dealt with, and in the declaration of the agent of the Chilean Government before the Second Arbitral Commission in Washington in 1900 to consider the claims that citizens of each country might have against the Government of the other.

From all these antecedents your excellency concludes that the Government of the United States can not understand the motive of my Government in refusing to pay the entire sum of the credit of Alsop & Co. This department views the claim in a different light altogether.

A short time ago, and, as your excellency remembers, by the Chilean-North American Convention of August 7, 1892, an arbitral tribunal was formed in Washington. The liquidators of Alsop & Co. appeared before that tribunal, asking that it declare that the Government of Chile was obliged to cancel entirely the amount of the credit. The arbitral commission declared that for lack of time it could not decide upon the claim. By the convention of May 24, 1897, it was agreed to form a second arbitral tribunal for the purpose of settling the claims left over from the first. The liquidators of Alsop & Co. again presented themselves. The agent for Chile maintained that the tribunal could not settle the claim since it was not a United States firm but a Chilean entity (*persona juridica chilena*), because it had been formed and was domiciled in Valparaiso and was registered in that city.

The tribunal, by its decision of February 8, 1901, declared that the firm of Alsop & Co. was a Chilean commercial partnership and that the claimants had a right to the diplomatic protection of the Government of Chile. And not only in this case did the arbitral commission declare that the firm of Alsop & Co. had the nationality of our country. The claim No. 26 presented by the said firm, together with No. 31, were rejected for the same reason.

The observations on this point contained in the note of the department dated March 9, 1908, excuse me from entering into fuller details. You will only allow me to insist that the declaration contained in the decision of the arbitral tribunal of Washington is in perfect accord with the practice followed by the Department of State, by virtue of

which a society has, for the purpose of diplomatic protection, the nationality of the country in which it was formed. (See Moore, *A Digest of International Law*, Washington, 1906, Vol. VI, sec. 984, p. 641, and sec. 985, p. 646; see also pars. 982 and 983.)

Consequently, there is no doubt that, after the decision of the tribunal of Washington, the credit of Alsop & Co. can not be taken up diplomatically against the Government of Chile. The interested parties should present, in a friendly manner, the rights they believe themselves to have against our country, or bring them before the Chilean judicial authorities. This is the form of procedure established by international law and the one recognized by the Government of the United States in various cases, sometimes in pressing claims and sometimes in meeting them, where it has recommended its agents, in treating the facts of this kind, to respect the laws and authority of the respective countries. (See Moore, work cited, Vol. VI, sec. 912, pp. 248-249; sec. 971, pp. 909-910; secs. 986 and 987, pp. 651-677; see also sec. 995, p. 705.) Only in case where a claim is, without justifiable reasons, not attended to, or of denial of justice, can the Government of the country to which the interested parties belong make a claim through diplomatic channels.

The Government of Bolivia regards in the same light as my own the futility of the protection alleged by the Government of the United States. The last memorial presented to the Congress of Bolivia in 1908 by the minister of foreign affairs, Don Claudio Pinilla, on pages 16 and those following, says as follows:

In fact the Government of Bolivia agrees with that of Chile in considering that the foreign office of the United States has not the right, according to the principles of international law, to support diplomatically the creditors, Messrs. Alsop & Co., for the following reasons:

1. Because the sum destined to the payment of the said credit was retained by a judicial order by reason of the suit to nullify the contract instituted against Messrs. Alsop & Co. before Chilean courts, by an heiress of Señor Pedro Lopez Gama, it not being practicable in this case to proceed diplomatically, disturbing the jurisdictional laws of a country and in prejudice of private rights.

2. Because the firm of Alsop & Co. constitutes a moral Chilean personality, as the decision of the Chilean-American Arbitral Tribunal convened in Washington in the year 1900 states, which in one of the considerations of its decision says:

"That Alsop & Co. is a society en commandita simple duly formed, incorporated and registered in accordance with the law of Chile and with all the formalities of the said law and domiciled in Chile.

"Consequently, the social firm of Alsop & Co. being a juridical Chilean personality, quite distinct from the personality of its members, is subject to the laws of Chile, the Government of the United States of America not being able to lend it its support in virtue of the fact that the individuals who compose this society are its citizens, since it can not destroy the juridical character which Messrs. Alsop & Co. hold under the laws of Chile."

The President of Bolivia, in his turn, in the message delivered to the National Congress of 1908, expressed himself as follows:

As regards the rest, signed as has been the protocol which looks to the adjustment of the form of the payment of the guaranties of our inland railroads, the frontier having been marked and the adjustment concluded for the exchange of some territories whose native proprietors desired to continue in the jurisdiction of Bolivia, there only remains that the honorable Congress should give its approval to these acts in order that the treaty of peace shall be fulfilled in all its parts, including the cancellation of the credits therein enumerated, since such credits have already been paid as appears from the acquittances existing in the archives of our State department, with the exception of that of Alsop, which, because it is a Chilean firm, can not move except within and in conformity with the laws of Chile nor receive other diplomatic protection than that which belongs to the department of foreign relations of that country, as in conformity with the rules and principles of international law the arbitral tribunal

declared in its decision of February 8, 1901. Said credit will be canceled when its representatives desire to receive the funds deposited for its payment and lately attached by judicial order because of a suit instituted against Alsop by an heir of Lopez Gama.

Notwithstanding the incontrovertible force of the aforesaid antecedents, your excellency's Government considers that the decision of the tribunal of Washington does not prevent it from affording diplomatic protection to the firm of Alsop & Co.

Before supposing that the Government of your excellency does not show a disposition to respect this decision, I put myself in the position of admitting that it does not attribute to it the interpretation which my Government and that of Bolivia give to it, but a different one. In such an event this disaccord which is merely of a juridical character can be satisfactorily solved by arbitration.

Putting ourselves under the merely hypothetical supposition that the decision of the tribunal of Washington should not be of any force, I am sorry to point out to your excellency that it would not be possible for this Government to admit the reasons alleged by that of your excellency for diplomatically supporting the aforesaid claim.

The allegations of your excellency are related with those relative to the obligation which, according to the Government at Washington, my country is under to cancel the entire credit of Alsop & Co. I shall examine them jointly.

One of these reasons is that the Government of Chile having occupied, at first temporarily, and afterwards having definitely acquired the territory in which the property constituting the said guarantee was situated, is, because of that, responsible for the said credit just as was the Government of Bolivia.

These securities, according to the agreement of December 26, 1876, between the claimant and the Bolivian Government, were of two classes: A part of the receipts of the Arica customhouse which Bolivia received by virtue of the agreement signed by Peru, and a certain percentage of the proceeds of some silver mines belonging to Bolivia and situated on the coast.

The guarantees in question have in no way the character of actual right (*derecho real*); by them the only act done was to assign the proceeds of certain property to the payment of the credit.

In the note from this department to your legation, dated March 9, 1908, it is stated that not only the opinion of public men, but principally in the decisions of national and international tribunals guarantees like those given in favor of Alsop & Co. do not partake of such a mortgage character as to cause them to be respected by the annexing State and have no international importance.

Your excellency will allow me to state here the principal judicial decisions which I have just alluded to.

In the decision pronounced on April 18, 1877, by the supreme court of justice of England, in the suit of *Twycross v. Dreyfus*, it is declared that it is impossible to consider seriously as a mortgage or security that which the Government of Peru agreed to, on giving as a guarantee her deposits of guano.

In the decision that the court of appeals of Paris passed on the case of *Domis and Associates v. Dreyfus Bros. & Co.*, June 25, 1877, the following reason is found:

Considering that in spite of the expressions, frequently employed, of agreement, pledge, assignment, general and special mortgage, it appears that the Government

of Peru has done no more than to pledge in a general manner, as an ordinary debtor, to the service of each one of its loans, the receipts and rights that it designated itself, without excluding those of any other nature that might belong to it.

The court of cassation, August 24, 1878, declared the appeal made against that judgment inadmissible. (Sirey, year 1878, I, pp. 345 and following.)

The court of appeals of Brussels, in a judgment rendered August 4, 1877, expressed itself as follows:

Considering that the obligations contracted by the Government of Peru, according to Article VI of the general undertaking, in which, after indicating all its receipts, it declares under the pledge of the national honor, that it pledges the net proceeds arising out of the sale of guano, are evidently nothing else than pledges of honor as the supreme court of England decided on April 18, 1877.

The Franco-Chilean Arbitral Tribunal that sat at Lausanne in conformity to the Chilean decree of February 9, 1882, and Articles IV and VI of the Pact of Ancon, and whose task was to distribute 50 per cent of the net proceeds of the sale of a million tons of guano among the creditors of Peru, whose credits and titles were sustained by the guano, decided that our country was entirely right with respect to the force and scope that she attributed to that guarantee. Resolution D No. 2 of the decision of July 5, 1901, rendered at Rapperschwyl, declares that the existence of the right that the creditors of Peru pretend to have guaranteed by the guano "is not confirmed by doctrine nor practice of international law; and said pretension is supported by an inexact juridical appreciation of the relations existing between the State debtor and the parties taking the loan." And further on it adds that in the text of the general obligation of the loan of 1870 "the term mortgage often repeated is manifestly employed in an improper manner, in the general meaning of promise or guarantee;" and that "the pretended mortgage of the holders of titles of 1870 only consisted in the obligation acquired by the Government to affect the proceeds of the exportation of guano to the canceling of the debt." And in No. 3 of the same resolution D it declares "that it remains established that, at the time of the Chilean occupation, the guano fields of Peru were not burdened with any real right in favor of the creditors of the State." Finally, in the same number and resolution it also made evident that the French Government, in a note directed to the Chilean minister at Paris, March 12, 1881, took the same view as Chile with respect to said material.

Your excellency's Government, in a recent case of great international importance, has applied the same doctrine as that contained in the judicial decisions that I have just cited. In the conference held in Paris in 1898 to settle the conditions of peace between the United States and Spain, the commissioners of your Government refused to accept the responsibility for any part of the Spanish debt in Cuba or Porto Rico, although it might have the character of a mortgage. (See Moore, *op. cit.*, Vol. I, sec. 97, pp. 351-385.)

That is not all. The assurances constituted by the Government of Bolivia in favor of the credit of Alsop & Co. are so much less worthy of the consideration of the Government of my country, since the greater part of them had been constituted on property situated in Chilean territory that my country recovered from Bolivia in the Pacific war (Caracoles mines) and the rest from property three-fourths of the proceeds of which went to Bolivia in virtue of the truce covenant

(the right to certain receipts of the Arica customhouse, in which Bolivia had an interest), the other fourth part being destined to the maintenance of the service in the same customhouse. So that of the guarantees of the credit of Alsop & Co. one was granted by Bolivia in territory that was really Chilean, and the other has been enjoyed almost entirely by the former country since the year 1884.

With these antecedents given it is easy to prove that Chile does not affect any responsibility for the guarantees which the Government of Bolivia granted in favor of the credit of Alsop & Co.

Again, Mr. Minister, we are facing questions of pure law concerning which the appreciations of the two Governments are contradictory, which controversy can be ended by the decision of an impartial authority who may decide whether the theory sustained by your Government or that defended by my country is the one that comes nearest the doctrine and practice commonly admitted by international law.

This department believes that the second reason expressed by your excellency to maintain that my country is obliged to pay the entire credit of Alsop & Co. has no more judicial force than the former. I shall pass on to it.

In the note of the 17th your excellency states that the Government of Chile, in the draft treaties of peace with Bolivia and other acts of this Government, has manifested itself disposed to cancel the credit of Alsop & Co. I am glad to recognize the effectiveness of that assertion, adding that my Government proceeding in this form, did it, not because it recognized that it was obliged to pay that credit, but through special deference to the Government of your excellency, and on the account of Bolivia.

In spite of this, Chile, making use of her privileges, resisted tenaciously before the arbitral tribunal in Washington the appearance of the Alsop firm against her as a North American creditor, by that she did not cease to be always ready to take into consideration this credit which did not bind her. The creditors and your Government had manifested special interest that Chile should take charge of it, including it among the creditors that she was disposed to pay on the account of Bolivia, up to a certain amount, and as a part of the indemnization that she would give to that country for the grants of territory.

My Government, then, has never offered to pay this credit in full, but has always limited itself to the propositions it considered most fit. Thus it is explained because, in the different projects of treaties of peace with Bolivia, the credit of Alsop & Co. has always appeared with different sums. Chile had no motive for assigning invariably in these projects a fixed quantity; the only thing that she has admitted was that she would consider this credit among those that she had taken in charge, within certain limits, in her arrangements with Bolivia.

In the treaty of peace of 1904 the Government of Chile destined the sum of £2,000,000 gold at 18d. to pay therewith, pro rata, the credits indicated in said treaty among which that of Alsop & Co. was included.

There is no reason whatever why this credit should be privileged with respect to the others, and should be paid entirely or by a sum greater than that which corresponds to it in the pro rata distribution.

The same should be said of the different promises or offers made by my Government to yours for settling this claim. For that purpose, my country, without giving weight to the decision of the arbitral tribunal of 1901, has gladly accepted the good offices of your excel-

lency's Government to come to an agreement with Alsop & Co.; but she has always protested that your Government, not recognizing the weight of that decision, has always protected this Chilean firm through diplomatic channels. In the estimation of my Government all the questions that have come up between the two Governments concerning this case have never been more than friendly efforts.

The efforts made by my Government on various occasions to cancel the credit of Alsop, in the way in which it has always intended to do it, have never been to pay it entirely, but to cancel it with a smaller sum or with that which was indicated in the treaty of peace with Bolivia. Your Government has never accepted these offers. Consequently, these different unilateral propositions can not have the character of contractual obligations that your excellency attributes to them. It is impossible, then, to consider offers, constantly refused, as a source of obligation of civil or international character.

The declaration which the agent of Chile made before the arbitral tribunal at Washington to oppose the nationality of Alsop & Co. and to which your Government, with reason, gives so much importance is conclusive in the sense which I have indicated.

That declaration is of the following tenor, according to the decision of the tribunal:

It is declared that this claim (that of Alsop & Co.) is among the liabilities which the Government of Chile engaged to pay for the account of Bolivia. The Government of Chile has always considered it, and still considers it, an obligation on the part of Bolivia toward the claimant, and in order to induce the Government of Bolivia to sign the definite treaty of peace which has been negotiated for many years the Government of Chile promises to settle this and other claims as a part of the payment or consideration which it offers to Bolivia as a recompense for the signing of the treaty. This has always been the position of the Government of Chile and is its position to-day, and if Bolivia signs the treaty, the claim of Alsop & Co., as well as the other claims mentioned, will be promptly paid according to the treaty engagement as a relief to Bolivia from the liabilities which that Government has incurred, and for the account of Bolivia.

Chile has not disregarded, much less eluded, her promise to the Government at Washington to contemplate justly, in the treaty of peace with Bolivia, the credit of Alsop & Co.; on the contrary, she has honored her word, and since that treaty was signed has informed your excellency's Government that she has at the disposition of the claimants the amount belonging to them according to said treaty.

I esteem, Mr. Minister, that for brevity's sake I should omit other reasons that this department has for not being able to accept the assertions of your Government that the Government of Chile is personally obliged to cancel the entire credit of Alsop & Co. In this respect I refer to the cited note of March 9 of the past year.

Permit me, also, honorable sir, to correct a mistake contained in your note relating that this Government has offered the Government at Washington, on various occasions, without ever sending them, documents that justify the attitude it has assumed in this affair. These documents do not refer, as a passage of the note of your excellency seems to indicate, to any proof that the credit of Alsop & Co. is not effective, but to demonstrate, as is indicated in another passage of the same note, that our Government is not juridically nor conventionally obliged to pay the whole of the said credit.

All the documents to which this department's note of March [April] 9, 1908, and the present one refer are documents which amply justify the position, not only that my Government has not such

judicial nor conventional obligation, but also that it has been considerate in vain of your Government and just in vain to the claimants, being ready to pay immediately the sum which, by the Chilean-Bolivian treaty of peace of 1904, belonged to the credit of Alsop & Co., and that the other creditors whose credits have been settled by that treaty have gladly accepted their share, in spite of having equal or better right than the firm of Alsop & Co.

This department has always believed that those antecedents would convince the Government at Washington of the rectitude of our proceedings, and as your excellency so truthfully says, that Government, understanding things, would not insist on pressing the claim.

I sincerely hope, Mr. Minister, that with this note I have convinced the just and impartial mind of the Department of State of the justice of our cause and the sincerity with which we defend it.

In any case it appears undeniably evident that there is a difference of opinion between the two Governments as to the judicial rights in this case, a difference that is not political, not of vital interest, and in which the national honor is not at stake, and, consequently, may be satisfactorily settled by arbitration, as my honorable predecessor, Señor Puga Borne, proposed to your legation.

The arbitration should be broad and thorough, corresponding to the loyalty and good faith with which both parties support their convictions; consequently, all questions that divide us on the subject should be effectively solved.

To that effect, allow me to submit to your excellency's consideration the following project of protocol, which, in essence, agrees with the one which your excellency sent to this department in your note of September 17 of the present year.¹

I take, etc.,

(Signed)

AUGUSTIN EDWARDS.

Protocol between the United States and Chile—Arbitration of the Alsop claim.

Signed at Santiago, December 1, 1909.

The Government of the United States of America and the Government of the Republic of Chile, through their respective plenipotentiaries, to wit: Seth Low Pierrepont, chargé d'affaires of the United States of America, and Agustín Edwards, minister of foreign affairs of Chile, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following

PROTOCOL OF SUBMISSION.

Whereas the Government of the United States of America and the Government of the Republic of Chile have not been able to agree as to the amount equitably due the claimants in the Alsop claim:

Therefore, the two Governments have resolved to submit the whole controversy to His Britannic Majesty Edward VII who as an "aima-

¹ Not printed. See protocol as finally signed.

ble compositeur" shall determine what amount, if any, is, under all the facts and circumstances of the case, and taking into consideration all documents, evidence, correspondence, allegations, and arguments which may be presented by either Government, equitably due said claimants.

The full case of each Government shall be submitted to His Britannic Majesty, and to the other Government through its duly accredited representative at St. James, within six months from the date of this agreement; each Government shall then have four months in which to submit a counter case to His Britannic Majesty, and to the other Government as above provided, which counter case shall contain only matters in defense of the other's case.

The case shall then be closed unless His Britannic Majesty shall call for further documents, evidence, correspondence, or arguments from either Government, in which case such further documents, evidence, correspondence, or arguments shall be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case shall be given as if such documents, evidence, correspondence, or arguments did not exist.

The decision by His Britannic Majesty shall be accepted as final and binding upon the two Governments.

In witness whereof, the undersigned plenipotentiaries of the United States and Chile have signed the above protocol both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the city of Santiago, this 1st day of December, 1909.

SETH LOW PIERREPONT.
AUGUSTIN EDWARDS.

File No. 1154/256.

Ambassador Reid to the Secretary of State.

No. 1112.]

AMERICAN EMBASSY,
London, December 16, 1909.

SIR: Referring to the department's telegraphic instruction December 1,¹ quoting in full the English text of the protocol of December 1 between the Governments of the United States and Chile with reference to the Alsop claim, I have the honor to inclose herewith copy of my note to the foreign office of to-day's date submitting to His Majesty the King the whole controversy for his friendly adjustment.

I also have the honor to inform you that the Chilean minister in London has to-day sent a similar note to the foreign office transmitting the Spanish text of the protocol.

I have, etc.,

WHITELAW REID.

[Inclosure.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, December 16, 1909.

SIR: I have the honor to inform you that on the 1st of December last a protocol was concluded and signed at Santiago, Chile, by the plenipotentiaries of the United

¹ Not printed.

States of America and of Chile providing for the settlement of the Alsop claim, the two Governments concerned having been unable to agree as to the amount equitably due to the claimants.

By Article II of this protocol, a copy of which is inclosed herewith, it is agreed that the two Governments shall submit the whole controversy to His Majesty the King for his friendly adjustment.

In accordance with this agreement I am instructed to present the formal request of my Government to His Majesty that he be graciously pleased to consider the case as presented under the protocol and determine what amount, if any, is equitably due said claimants.

I have, etc.,

WHITELAW REID.

File No. 1154/272.

Ambassador Reid to the Secretary of State.

No. 1126.]

AMERICAN EMBASSY,
London, December 31, 1909.

SIR: With reference to the department's cable, November 6, and subsequent correspondence in regard to the settlement of the Alsop claim, I have the honor to inclose herewith a copy of a note from the foreign office, dated the 30th instant, stating that His Majesty the King will have much pleasure in acting as mediator for the adjustment of this dispute. This decision has also been communicated to the Chilean minister in London by Sir Edward Grey.

I have, etc.,

WHITELAW REID.

[Inclosure.]

No. 45708/09.

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, December 30, 1909.

YOUR EXCELLENCY: In your excellency's note of the 16th instant you were so good as to inform me that you had received instructions to convey to His Majesty the King the formal request of the United States Government that he should be graciously pleased to accept the office of mediator for the settlement of the Alsop claim, which has for some time past been outstanding between the United States and Chile.

In reply I am happy to state that I have been instructed by His Majesty to inform you, for communication to your Government, that he will have much pleasure in acting as mediator for the adjustment of this dispute.

I would add that this decision of His Majesty has been likewise communicated to the Chilean minister, who had addressed a similar request to His Majesty on behalf of his Government.

I have, etc.,

E. GREY.

File No. 1154/286.

Chargé Phillips to the Secretary of State.

No. 1153.]

AMERICAN EMBASSY,
London, January 25, 1910.

SIR: I have the honor to inclose herewith a copy of my note to the foreign office expressing the high appreciation of the American Government for His Majesty's gracious and friendly action in accepting the office of mediator for the adjustment of the Alsop claim between the United States and Chile.

I have, etc.,

WILLIAM PHILLIPS.

[Inclosure.]

*Chargé Phillips to the Minister for Foreign Affairs.*AMERICAN EMBASSY,
London, January 24, 1910.

SIR: I have the honor to acknowledge the receipt of your note to Mr. Reid, dated the 30th ultimo, stating that you had been instructed by His Majesty to inform the ambassador, for communication to the Government of the United States, that he will have much pleasure in acting as mediator for the adjustment of the Alsop claim between the United States and Chile.

Under instructions from my Government I beg to express their high appreciation of His Majesty's gracious and friendly action in accepting the office of mediator in this dispute.

I have, etc.,

WILLIAM PHILLIPS.

[To be continued in Foreign Relations 1911.]

CELEBRATION OF THE FIRST CENTENNIAL OF THE INDEPENDENCE OF CHILE.

File No. 21891/2.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 2.]

CHILEAN LEGATION,
Washington, January 27, 1910.

SIR: As is known to your excellency, Chile will celebrate in September next the first centennial of its independence, and on that occasion my Government has instructed me to invite your excellency's Government to be represented at the celebration by a special envoy or delegation, a military detachment, or a naval division.

My Government is confident that your excellency will favorably receive this invitation and trusts that the manner in which your excellency's Government will be represented in one or more of the forms above indicated will effectively contribute to the strengthening of the relations between the two countries.

In extending the foregoing invitation to your excellency I fulfill the pleasant duty of putting on record and at the same time thanking your excellency for the amiable manner in which you received the intimations I ventured to make orally by way of introducing the present invitation.

I renew, etc.,

ANIBAL CRUZ.

File No. 21891/2.

The Secretary of State to the Chilean Minister.

No. 31.]

DEPARTMENT OF STATE,
Washington, February 24, 1910.

SIR: Referring to your note of January 27, 1910, numbered 2, inviting this Government to take part in the celebration of the centennial anniversary of Chilean independence and to be represented in the festivities commemorative thereof, the Department takes great pleasure in informing you that the invitation is accepted.

The Navy Department of the United States have arranged to have the First Division of the Pacific Fleet, consisting of the *California*,

South Dakota, Pennsylvania, and Colorado, armored cruisers, and the supply ship *Glacier*, visit Valparaiso on the 18th of September. The Department of State will instruct the United States delegates which will be named to represent it at the Pan American Conference to proceed to Santiago after the adjournment of said conference. This delegation will be accredited to represent the United States at the celebration of the centennial of Chilean independence.

Accept, etc.,

(For Mr. KNOX),
HUNTINGTON WILSON.

File No. 21891/11.

The Chilean Minister to the Secretary of State.

[Translation.]

No. 5.]

CHILEAN LEGATION,
Washington, March 28, 1910.

SIR: On being apprised of the favorable reception given by your excellency to the invitations I had the honor to extend to you for the representation of the United States at the celebration of our independence, my Government instructed me by telegraph to express its thanks to your excellency, and in confirming these instructions by mail the minister of foreign relations of Chile says the following:

It is most gratifying to the department to note the cordial sentiments toward Chile evidenced in the conference to which you refer by the Secretary of State of the United States, which sentiments are further emphasized by the designation of the delegates who will represent that Government in September next.

I find particular pleasure in transmitting the foregoing to your excellency, and avail myself, etc.

ANIBAL CRUZ.

File No. 21891/18.

The Chilean Chargé to the Secretary of State.

No. 10.]

CHILEAN LEGATION,
Washington, June 10, 1910.

SIR: Referring to the invitation extended by the Government of Chile, through this legation, to your excellency's Government to be represented at the festivities commemorative of the first centennial of our national independence, which is to be celebrated on September 18 next, and to the favorable reception given to that invitation by the Government of the United States, I have the honor to inform your excellency that I have received by cable instructions to ask that your excellency will, if possible, kindly let me know the number, names, and rank of the chiefs and of each commanding officer of the vessels of the First Division of the Pacific Squadron which are to visit Valparaiso on the above-stated date. The naval review which will be had at Valparaiso on the occasion of the festivities will take place on the 14th of September and I venture, under my instructions, to suggest to your excellency the advisability of having the American division arrive at that port not later than the 10th of that month, so as to give it appropriate anchorage.

The date of September 12 has been set for the beginning of the festivities above referred to, and my Government would highly

appreciate it if the delegation that will represent your excellency's Government on that occasion were in Santiago before the 12th of September, the last day on which his Excellency the President of the Republic will have the opportunity to receive the credentials of the foreign special representatives whom my Government is prepared to receive as guests of the nation on and from the 10th of said month.

I renew, etc.,

A. YOACHAM.

File No. 21891/20.

The Secretary of State to the Chilean Chargé.

No. 34.]

DEPARTMENT OF STATE,
Washington, June 28, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, by which you communicate to the department your Government's request to be informed of the number, names, and rank of the chiefs and of each commanding officer of the United States Naval Division which will visit Valparaíso to take part in the Chilean Centennial Celebration, and in which you quote your Government's suggestion that the naval division arrive at Valparaíso not later than the 10th of next September.

In reply it affords me pleasure to say that I am advised by the Secretary of the Navy that the First Division of the United States Pacific Fleet will arrive at Valparaíso on September 10, 1910, agreeably to your Government's desire. This division will consist of the four armored cruisers *California* (flagship), *Washington*, *Colorado*, and *Pennsylvania*, and will be under the command of the commander in chief of the United States Pacific Fleet, Rear Admiral Giles B. Harber, United States Navy.

The principal officers attached to the division will be: Rear Admiral Giles B. Harber, United States Navy, commander in chief, United States Pacific Fleet, commanding division; Capt. Henry T. Mayo, United States Navy, chief of staff; Lieut. Commander J. V. Chase, United States Navy, flag secretary; Lieut. Commander D. E. Theleen, United States Navy, fleet engineer; Lieut. L. R. Leahy, United States Navy, flag lieutenant; Lieut. D. B. Craig, United States Navy, aid; Capt. Henry T. Mayo, United States Navy, commanding United States ship *California* (flagship); Capt. Valentine S. Nelson, United States Navy, commanding United States ship *Colorado*; Capt. Charles F. Pond, United States Navy, commanding United States ship *Pennsylvania*; Capt. R. M. Hughes, United States Navy, commanding United States ship *Washington*.

The order of rank of the captains named above is as follows: 1, Capt. Henry T. Mayo, United States Navy; 2, Capt. Charles F. Pond, United States Navy; 3, Capt. Valentine S. Nelson, United States Navy; 4, Capt. Richard M. Hughes, United States Navy.

Accept, etc.,

(For Mr. Knox),
HUNTINGTON WILSON.

File No. 21891/21 F.

*The Secretary of State to Mr. Henry White, special delegate to the centenary celebration at Santiago.*¹

DEPARTMENT OF STATE,
Washington, June 28, 1910.

SIR: I inclose the President's appointment designating you as special delegate of the United States of America, with the rank of ambassador extraordinary and plenipotentiary, on special mission to represent this Government at the ceremonies which are to take place at Santiago, Chile, in September next, incident to the centenary celebration of Chile.

Referring to the personal instructions given you at this department before you left for Buenos Aires, the department only desires to add that it has been informed by the Government of Chile that the latter will be happy to receive you and your colleagues at Santiago on September 12 next.

I am, etc.,

For Mr. Knox:
HUNTINGTON WILSON.

File No. 825.415 A /44 A.

President Taft to the Acting President of Chile.

[Telegram.]

THE WHITE HOUSE,
Washington, September 18, 1910.

Upon this, the centenary of your excellency's great country, I desire to express directly to your excellency my sincerest and most cordial felicitations, adding them to the messages which have already been delivered by the special ambassador and delegates of the United States.

The Government and people of the United States, reviewing the splendid progress achieved by your excellency's country, rejoice with Chile on this memorable day.

I also desire to offer your excellency personally the assurances of my high regard and consideration.

WILLIAM H. TAFT.

File No. 825.415 A/46.

The Acting President of Chile to President Taft.

[Telegram—Translation.]

SANTIAGO, September 20, 1910.

Particularly gratifying to the people of Chile are the sincere and cordial felicitations which your excellency in the name of the Government and people of the United States was pleased to send us on the occasion of the centennial of our independence in which the great Republic of the north cooperated by its example, which showed us what liberty was and the benefits it poured over the nations. May your excellency be pleased personally to accept the assurances of my most distinguished consideration.

FIGUEROA.

¹ Mutatis mutandis to Mr. Bernard Moses; Mr. Lamar Charles Quintero; Mr. John Bassett Moore; Col. Enoch H. Crowder, United States Army; Mr. Lewis Nixon; Mr. Paul Samuel Reinsch; Mr. David Kinley

File No. 825.415 A/57.

The special delegates of the United States to the centenary celebration at Santiago to the Secretary of State.

WASHINGTON, October 4, 1910.

SIR: After the close of the Fourth International Conference of American States, at Buenos Aires, the undersigned, who had composed the delegation of the United States in that assembly, proceeded, in accordance with your instructions, to Santiago, Chile, for the purpose of representing our Government, under the new and special appointments with which we were provided (investing the chairman of the delegation with the rank of ambassador and the rest of the delegation with that of ministers plenipotentiary) at the celebration of the hundredth anniversary of Chilean independence.

It gives us pleasure to report that we were received by the Government of Chile with the utmost cordiality. A large house, completely furnished and with a staff of attendants, was placed at our disposal, and from first to last we were cared for, as were the special representatives of other Governments at the centenary, as the guests of the Chilean Nation.

The ambassador of the United States was presented to the Chief Magistrate of Chile on the 10th of September. We inclose herewith the speeches made on that occasion. (Exhibits 1 and 2.)¹

The special ministers plenipotentiary of all the powers were presented together on the 12th of September. No speeches were made at their presentation.

We beg leave to state, for your information, that only Italy, the United States, Germany, Japan, Spain, Brazil, and France were represented by ambassadors. We give the ceremonial order in which their ambassadors ranked, as determined by the date of their arrival in Santiago. It is understood that Great Britain was prevented from sending such a representative because of the continuance of the term of mourning for the late King. Bolivia was represented by her Vice President in an ambassadorial capacity.

We inclose herewith an English translation of the program of the centenary. (Exhibit 3.) The official exercises were opened on the 12th of September and closed on the 22d. The item on the 30th of the month was not included in the list of events at which the presence of the foreign representatives was officially requested.

The program, as it stands, is a notable one, but it represents an abbreviation of that which was originally formulated. The change was due to the death of President Montt on the eve of the centenary, a melancholy event, which was soon followed by the demise of Vice President Fernandez Albano, who had succeeded him in the exercise of the functions of Chief Magistrate. In this contingency the functions of the Vice President devolved upon the ranking member of the cabinet, Señor Figueroa, who performed the duties of Chief Executive during the celebration of the centenary, and who will continue to perform them till the inauguration of the new President, Señor Barros Luco, who was nominated, without opposition, during our sojourn in Santiago, and whose election has thus become a formality.

It is beyond the purpose of this report to describe in detail the numerous celebrations on the program of the centenary. The principal day was the 18th of September, which is considered the natal day of Chilean independence. The participation in the exercises of that day of children from the public schools, bearing in their procession Chilean and American flags, was a gratifying feature of the occasion.

We deem it proper to mention the fine appearance made by our squadron, under Admiral Harber, at the naval review at Valparaiso.

We left Santiago on the 22d of September. Our farewell took the form of a banquet, which we tendered to Vice President Figueroa, and which he accepted, for the evening of the 21st. This banquet, which his excellency graced with his presence, was given at the Santiago Club, and was attended by the principal functionaries of the Government, by the special and resident diplomatic representatives, and by numerous and distinguished private citizens. Two speeches were made—one by the American ambassador and the other in the nature of a reply, on behalf of the Vice President, by Señor Izquierdo, minister of foreign relations. Copies of these speeches are hereto annexed.¹ (Exhibits 4 and 5.)

We also inclose copies of letters which, on leaving Santiago, we addressed to Señor Izquierdo, to the minister of war and marine, to Señor Sanfuentes, president of the committee on the centenary, and to Señor Jorge Asta-Buruaga. (Exhibits 6, 7, 8, and 9.)

We have, etc.,

HENRY WHITE.
E. H. CROWDER.
JOHN B. MOORE.
LAMAR C. QUINTERO.
DAVID KINLEY.
BERNARD MOSES.
PAUL S. REINSCH.
LEWIS NIXON.

PROTECTION OF CHILDREN BORN IN CHILE OF CHINESE PARENTS.

File No. 15077/85.

Minister Hicks to the Secretary of State.

No. 311.]

AMERICAN LEGATION,
Santiago, February 22, 1909.

SIR: Referring to department's 126² and No. 140,¹ dated August 22, 1908, and December 3, 1908, in regard to representation of the Chinese in Chile, I have to report that the necessary instructions were sent at once to the consuls at Valparaiso, Iquique, and Punta Arenas.

The consul at Iquique, Mr. Rea Hanna, in acknowledging receipt of the instructions, asks if the children born in Chile of Chinese parents are to be considered as Chinese subjects and given certificates. As under the Chilean law all persons born in Chile are considered Chilean citizens, his inquiry is natural.

I have advised him that, in the absence of specific instructions on this point, I would express the opinion that children born in the country of foreign parentage could not be deprived of their citizen-

¹Not printed.

²See Foreign Relations, 1908, p. 61.

ship without the assent of the Government to which the parents owed allegiance and that until I could obtain exact instructions on this point he could act accordingly.

However, I notified him that I would lay the matter before the department for a ruling, as I can find nothing in my instructions which covers the point.

I shall be glad, therefore, if department will give me a decision in the case, and I shall at once communicate it to all the consuls.

I am, etc.,

JOHN HICKS.

No. 15077/85.

The Acting Secretary of State to Chargé Pierrepont.

No. 150.]

DEPARTMENT OF STATE,
Washington, August 3, 1910.

SIR: Referring to previous correspondence, the department acknowledges the receipt of Mr. Hicks's dispatch No. 311, of February 22, 1909, in regard to the protection of Chinese in Chile. Mr. Hicks referred to an inquiry made of him by the consul at Iquique as to whether children born in Chile of Chinese parents are to be considered Chinese subjects and furnished with the usual certificates of protection.

In reply I have to state that, as the persons mentioned by the consul at Iquique are, by Chilean law, citizens of Chile, it would not be proper for our representatives in that country to assert their Chinese citizenship and extend protection to them in that capacity, against the contention of the Chilean Government that they are its citizens.

I am, etc.,

HUNTINGTON WILSON.

MESSAGE OF THE PRESIDENT OF CHILE TO THE CHILEAN
CONGRESS.

File No. 180/41.

Chargé Pierrepont to the Secretary of State.

No. 91.]

AMERICAN LEGATION,
Santiago, June 7, 1910.

SIR: I have the honor to report that the President of Chile opened the ordinary session of the National Congress on June 1 with all the customary solemnity, the ceremony being followed by a military review.

Inclosed herewith are two copies of the annual message which the President himself read to Congress, together with translations of the extracts relating to the United States, the relations with Peru, the situation between Peru and Ecuador, and the legation in Japan.

I have, etc.,

SETH L. PIERREPONT.

[Inclosure—Translation.]

Opening of the National Congress—Joint session of the two Houses, June 1, 1910—Presidency of Luis Antonio Vergara.

The lack of precision in the boundaries of the old Spanish colonies of America has unfortunately given rise to other controversies of the same kind, and among them the dispute affecting Peru and Ecuador is especially sensitive.

Not only the old and strong chains of friendship that bind us to Ecuador, but also our interest in preserving the continental peace, have induced us to multiply our efforts in order to obtain a friendly solution of the difficulty.

Being inspired by this high motive and within the sphere of action corresponding to us, under the circumstances, we insinuated at an opportune moment the idea of a mediation. We hope to see the good offices that three friendly powers have offered crowned by an agreement equitable and satisfactory to the aspirations and harmony of the interests of Ecuador and Peru.

The traditional cordiality of our relations with Brazil have remained unchanged, and it gives me pleasure to testify to the fact that the intervention of her Government brought about the agreement which we reached with the United States of America to submit an ancient diplomatic claim to arbitration.

Our diplomatic relations with Peru have been interrupted once more.

In the course of the negotiations that took place in order to establish the basis of the plebiscite that should determine the nationality of the Provinces of Tacna and Arica, Peru saw fit to withdraw the legation she had accredited in Santiago.

I deplore that this resolution will postpone the opportunity for both countries to come to a definite agreement on this important question, a solution of which would be beneficial for both; and we can not understand the reasons of that Government for not considering our propositions, which are inspired by conciliatory and equitable sentiments, and unite with the desire that animates us to carry out the clauses of the treaty of Ancon referring to Tacna and Arica.

Various measures destined to augment the agricultural and industrial development of Tacna and Arica have drawn from the Government of Peru some observations which we have not esteemed proper, because those measures constituted acts of internal administration, executed in the exercise of the sovereignty which the treaty of Ancon conferred on Chile, and in fulfillment of the duties which that sovereignty places upon us respecting the advancement and progress of the people submitted to the laws of the country.

The diversity of origin and tendencies between the civil and ecclesiastical authorities of Tacna and Arica has brought about difficulties.

For that reason, and from the fact that no priest, Chilean or foreigner, has obtained the necessary authority to exercise his ministry, the Province of Tacna has been deprived of all religious services.

In order to remedy the inconveniences of the situation I applied to the Holy See, and His Holiness has seen fit to create a general military vicary, that shall attend to the religious services of that Province after a fashion.

The protocol celebrated with the United States of America to submit the Alsop claim to arbitration has been approved by the Government of that country and also by ours.

The contracting parties shall defend their respective rights before the court of arbitration in the manner and as amply as they shall consider convenient.

The minister of Chile to Japan is already at his post, a mission that has the double purpose of strengthening our friendly relations with that Empire and to correspond to the permanent legation established by that country in Chile.

The foreign commerce of the Republic, the importation as well as the exportation, reached in 1909 the figure of \$568,512,672 of 18d.

The exportation decreased from \$319,149,072 in 1908 to \$306,429,909 in 1909.

The decrease is due exclusively to the fall in the price of saltpeter. In spite of the fact that the quantity of saltpeter exported increased by 750,895 metrical quintals, the value of the exportation diminished by \$22,995,000. On the other hand, there was an increase in the exportation of animal and vegetable products, especially of barley and wheat.

The customs receipts reached the sum total of \$113,143,084 of 18d, a sum superior to that received in 1908 by \$3,242,728. The import duties, which reached the sum of \$40,390,108, increased by \$736,385, and the export duties, which produced \$71,876,356, increased by \$2,721,084.

CHINA.

STATUS OF AMERICAN CORPORATIONS IN THE CHINESE EMPIRE.

File No. 20930/1.

The Secretary of State to Minister Calhoun.

No. 12.]

DEPARTMENT OF STATE,
Washington, April 25, 1910.

SIR: I have to inclose for your information and guidance a copy of an instruction dated the 25th instant to the consul at Amoy, regarding the status in China of American corporations whose stock is owned wholly or in part by foreigners, as well as the status of American corporations organized under the laws of the Philippine Islands.

You are requested to furnish a copy of the inclosed instruction to the various consulates in China, including Hongkong and Tsingtau, as well as to the United States court for China.

I am, etc.,

P. C. KNOX.

[Inclosure.]

The Secretary of State to Consul Arnold.

No. 80.]

DEPARTMENT OF STATE,
Washington, April 25, 1910.

SIR: The department acknowledges the receipt of your No. 96, of June 22, 1909, and your No. 120, of October 2, 1909, regarding the status of the firm of Siuliong & Co., and the nature and measure of protection to be accorded by you to this firm.

In the question of the status which should be given in China to American corporations whose stockholders are mainly foreigners there appears to be two distinct elements:

(a) The right which such corporations might have to the diplomatic protection or intervention of this Government.

(b) The right which such corporations might have to the status of an American citizen in matters of litigation before the United States consular courts of China and before the United States court for China.

As to the first point, it would appear that inasmuch as no natural citizen of the United States has an absolute and inherent right (that is, a right that is enforceable in the courts) either to the protection or the intervention of this Government the Secretary of State may make such rules and regulations regarding the status of these artificial persons—these corporations—as may seem to him meet and desirable.

In framing such rules and regulations, however, it may be found to be to the commercial and other advantage of the United States fully to recognize and protect in China all corporations organized under the laws of the United States, or of any of its territorial possessions, irrespective of the question as to whether the stockholders or a majority thereof are or are not citizens of the United States.

As to the second point, it appears to the department that, as a legal proposition, our consular courts and the United States court for China will, under the present state of the law, have no option but to recognize as American citizens all American

corporations irrespective of the nationality of the stockholders; and to consider all American corporations as entitled to invoke the jurisdiction of the respective courts. This would appear to follow from the fact that our general statutes conferring extra-territorial jurisdiction, as well as the statute organizing and conferring jurisdiction upon the United States court for China, all speak of a jurisdiction over citizens of the United States, or, as the act for the United States court for China specifies, any citizen of any territory belonging to the United States. It is assumed that for purposes of jurisdiction a corporation organized under the laws of the Philippine Islands would be a citizen of the United States within the meaning of those sections of the Revised Statutes which confer jurisdiction upon our consular courts. It seems to be the established law of this country that so far as the question of the taking of jurisdiction by our Federal courts is concerned a corporation is to be regarded as a citizen within the meaning of the constitutional provision governing these matters. It would appear not unreasonable to assume that the same rule would and should be applied by our courts in China. Therefore, as a judicial question affecting the jurisdiction of our various courts in China, it would seem that all American corporations must be regarded as American citizens.

Briefly, then, it would appear from the above—first, that the department may or may not extend to such corporations diplomatic protection, as it may deem advisable; and, second, that in all probability an application by our courts in China of the law now obtaining in this country will require them to recognize as American “citizens” for purposes of jurisdiction all American corporations, irrespective of the nationality of the stockholders.

Since the firm of Siulong & Co. appears to be organized under the code of commerce of the Philippine Islands, and is practically a joint-stock company which, under said code, has an entity separate from its shareholders, there appears to be on the facts presented no objection to the registration of this firm at your consulate. A corporation which, like this firm, has a separate entity from its stockholders, duly organized under American laws, is technically regarded, irrespective of the citizenship of its stockholders, as an American corporation subject to American jurisdiction and entitled to American protection in the discretion of this department. It is understood, however, that registration of such companies indicates nothing except that the corporation is a duly organized American company, and does not necessarily imply that such corporation is entitled to the diplomatic protection or intervention of this Government.

You will, of course, understand that the above expressions regarding the status, before the consular courts and the United States court for China, of those American corporations whose stock is owned wholly or in large part by foreigners, as well as the question of the status before the same courts of American corporations organized under the laws of the Philippine Islands, are but statements of the department's opinion upon this matter, which can not be and are not intended to be conclusive or controlling upon either the consular courts or the United States court for China in the exercise of their sound judicial discretion regarding this matter.

There appears to be no law granting this department control over the unofficial display of American flags in foreign countries. The department understands that it is customary for American firms in China to fly the American flag on all American national holidays.

I am, etc.,

P. C. KNOX.

File No. 788/354.

TAXES LEVIED IN MANCHURIA UPON FOREIGN GOODS CERTIFIED AS EXEMPT THEREFROM.

The Acting Secretary of State to the Chinese Minister.

No. 194.]

DEPARTMENT OF STATE,
Washington, March 12, 1910.

SIR: I have the honor to call attention to the improper levy by the provincial authorities in Manchuria of certain taxes upon foreign goods which are provided with certificates exempting them from such taxation.

The facts are set forth by the Newchwang Chamber of Commerce in a note to the consular body at that port in the following terms:

A tax, commonly known as the consumption tax, is collected in the treaty ports on goods arriving there under exemption certificates, and elsewhere in the interior on foreign goods sent up from the treaty ports under transit pass. In the province of Kirin an additional tax of 1 per cent ad valorem, called the "business tax," is imposed on all goods, and a special tax of 15 candereens per case on kerosene oil, both of which are levied in contravention of the regulations, and specific cases in which the exemption certificates have been disregarded by likin officials at Liao-Yang and Tung-Chiangtzu have been brought to the notice of the viceroy.

You will probably recall that after the opening in 1906 of several inland cities of Manchuria to international residence and trade,¹ the question arose as to whether or not likin or other taxes could be levied upon goods in transit from the seaports to these inland open cities, and that after some correspondence between the American Legation in Peking and the Chinese foreign office the latter on November 19, 1907,² sent to the legation a copy of certain provisional regulations which had been adopted by the Chinese Imperial Maritime Customs for such shipments. According to these regulations "all foreign goods which have paid the regular import duty at Tientsin, Newchwang, Antung, or Dalny, as well as all native goods which have paid the coast trade half duty * * * and which are intended for transshipment to any of the newly opened ports of Manchuria will be given a special certificate exempting them from further payment of duty and this irrespective of the manner in which said goods are transhipped to their destination." These regulations were accepted by the American Legation as satisfactory and it was hoped by this Government that there would be no further difficulty over this question. The regulations are still in force, and it would seem quite evident that the levy of a "consumption tax" or "business tax" or any such charge, by whatever name called, upon goods covered by exemption certificates is a plain violation of the provisions quoted.

In case of goods sent into the interior under transit pass the collection of any such taxes is equally illegal and is expressly forbidden by the provisions of the commercial treaties which state that upon payment of a commutation transit duty or tax equal to one-half of the import duty in respect of dutiable articles and to 2½ per cent upon the value in respect of duty-free articles, a certificate shall be issued which shall exempt the goods from all further inland charges whatsoever.

Such illegal taxation of foreign imports bears very heavily upon American trade, and the American Government must solemnly remonstrate against this violation of treaty provisions and customs regulations.

I have the honor therefore to ask that you be so kind as to convey to the Chinese foreign office at Peking the request of this Government that instructions be issued without delay to the provincial authorities in Manchuria to cease the collection of any duty or tax upon goods covered either by exemption certificates or by inland transit passes.

Accept, etc.,

HUNTINGTON WILSON.

¹ See Foreign Relations, 1906, p. 162 et seq., and Foreign Relations, 1907, p. 130 et seq.

² See Foreign Relations, 1908, p. 127

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No. 406/292.

The Acting Secretary of State to Minister Calhoun.

No. 37.]

DEPARTMENT OF STATE,
Washington, July 2, 1910.

SIR: I have to inclose herewith for the information of the legation copy of a letter of to-day's date to Messrs. Ginn & Co., publishers of school and college textbooks, New York City, relating to the present status of copyright protection afforded American publications in China and Japan.

It will be noted that such protection as is accorded in Article XI of the treaty of 1903 between the United States and China is to be given "in the same way and manner and subject to the same conditions upon which it agrees to protect trade-marks"—that is, upon registration by the proper authorities of the United States at such offices as the Chinese Government shall establish for such purpose, on payment of a reasonable fee, after due investigation by the Chinese authorities and in compliance with reasonable regulations.

Such protection, it is also clear, is to be given for 10 years from the date of registration. The protection, however, promised in the article does not appear to be of much value. The article merely provides that books, maps, etc., especially prepared for the use and education of the Chinese people and translations into Chinese of any books are to be protected in the form in which so especially prepared or translations in the original form of publications. Few books, if any, published in the United States are especially prepared for the use and education of the Chinese people, and no others can find protection against copyright infringement in China. Even these few may be abridged or changed in unimportant respects and then be published in China without redress. As for translations, it is quite easy to modify a few sentences and paragraphs without changing the sense or lessening the value of such works, and by so doing produce a printed edition which can not be touched. Even original works in Chinese by American missionaries or others are just as easily deprived of protection. The article, therefore, really affords no protection of value. Nevertheless, Chinese officials have on various occasions shown a willingness to register book titles and issue proclamations for their protection, and such proclamations have the effect of deterring some who would otherwise pirate these publications.

As to the provision for registration no arrangement has yet been approved by the Chinese Government and no regulations for protection have been drawn up.

The department is aware that the Chinese Government in replying to inquiries regarding the copyright regulations state that such regulations must await the adoption of satisfactory trade-mark regulations. The department understands that such trade-mark regulations were adopted in 1903 and were acceptable to the United States, Great Britain, and Japan, but other powers objected, and repeated conferences upon the subject since that date have been without result.

I am, etc.,

HUNTINGTON WILSON.

[Inclosure.]

*The Acting Secretary of State to Messrs. Ginn & Co.*DEPARTMENT OF STATE,
Washington, July 2, 1910.

GENTLEMEN: I beg to acknowledge the receipt of your letter of the 21st ultimo, requesting information as to the present status of copyright protection afforded American publications in China and Japan.

In reply I quote below Article XI of the latest commercial treaty between the United States and China, which, you will observe, is far from satisfactory, inasmuch as it guarantees protection to such books only as are "especially prepared for the use and education of the Chinese people, or translation into Chinese of any book," and, even in the case of such books, protects the proprietor merely against reprinting in the same form as the registered work. The article reads as follows:

ARTICLE XI.

Whereas the Government of the United States undertakes to give the benefits of its copyright laws to the citizens of any foreign State which gives to the citizens of the United States the benefits of copyright on an equal basis with its own citizens:

Protection of copy- Therefore the Government of China, in order to secure such benefits in the right. United States for its subjects now agrees to give full protection, in the same way and manner and subject to the same conditions upon which it agrees to protect trade-marks, to all citizens of the United States who are authors, designers, or proprietors of any book, map, print, or engraving especially prepared for the use and education of the Chinese people, or translation into Chinese of any book, in the exclusive right to print and sell such book, map, print, engraving, or translation in the Empire of China during 10 years from the date of registration. With the exception of the books, maps, etc., specified above, which may not be reprinted in the same form, no work shall be entitled to copyright privileges under this article. It is understood that Chinese subjects shall be at liberty to make, print, and sell original translations into Chinese of any works written or of maps compiled by a citizen of the United States. This article shall not be held to protect against due process of law any citizen of the United States or Chinese subject who may be author, proprietor, or seller of any publication calculated to injure the well-being of China.

It will be noted that books must be registered in order to secure protection, and the Chinese Government has not yet issued any regulations or made any provisions for the enforcement of this article of the treaty.

Pending the issue of such regulations, however, the Chinese authorities are allowing book titles to be registered at the offices of the imperial maritime customs under the same arrangement as that made in the case of trade-marks.

Prior to the ratification of the latest commercial treaty between the United States and China, the Chinese local authorities frequently manifested a willingness to protect American copyrights by issuing, at the request of American consular officers, proclamations forbidding the reprint of books registered at the consulate, and in a number of cases native publishers and booksellers were fined for disregard of such proclamations. This procedure is still possible, and, in fact, is in vogue, but it can not be insisted upon as a right.

With respect to infringement by non-Chinese residents of China, there only exists one convention—that between the United States and Japan. This convention guarantees the protection of American copyright against infringement by Japanese or Koreans in China.

American copyright is protected in Japan by the convention between the United States and Japan of 1905. By the trade-mark conventions signed May 19, 1908, by the United States and Japan, similar protection is extended against infringement of American copyright by Japanese and Korean subjects in Korea as well as in China.

There is inclosed herewith for your information a pamphlet prepared in this department on the protection extended to patents, designs, trade-marks, and copyrights in China, Japan, and Korea.

I am, etc.,

HUNTINGTON WILSON.

PROPOSED ESTABLISHMENT BY THE CHINESE EASTERN RAILWAY COMPANY OF A MUNICIPAL ADMINISTRATION AT HARBIN.

*Memorandum from the Russian Embassy.*IMPERIAL EMBASSY OF RUSSIA,
Washington, February 4, 1908.

The Chinese Government has just lodged a protest both with the imperial Russian authorities and the American and Japanese consuls at Harbin against the contemplated establishment, by the Eastern Chinese Railway Co., of a municipal administration at Harbin and Hailar. While the Japanese consul is favorably disposed toward that reform, the consul of the United States, taking the Chinese side of the question, appears to disapprove of the land grants being put under the administration of the railway. This attitude of the American consul is all the more incomprehensible, as it appears from the exchange of views on this point between the minister of Russia and the representative of the United States at Peking that the Federal Government has not yet taken a determined stand regarding the Russian administrative measures in those ports and that the consul is acting upon his own initiative.

Now, the Imperial Government is of opinion that in this matter the railway company is but exercising rights which belong to it under the concession granted by China for the construction of the railroad track. The measure under consideration has, furthermore, no other object than that of regulating living conditions on the territory granted to the railway and merely meets the requirements of the population, including the foreigners, whose rights are in nowise affected by the establishment of a municipal administration.

This is the reason why the Imperial Government entertains the hope that the Federal Government will share its views on this question and will be good enough to send suitable instructions to its representatives at Peking. It would be especially desirable that the consul of the United States at Harbin be directed to declare, in reply to the Chinese communication, that his Government does not wish to meddle in this matter.

File No. 4002/45-46.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 851.]

AMERICAN LEGATION,
Peking, February 25, 1908.

SIR: I have the honor to inclose copy of a note received to-day from the Wai-wu Pu, referring to inauguration by Russia of the municipal council at Harbin, China's protest against the same, the Russian minister's reply to the protest, and quoting at length the rejoinder of the Wai-wu Pu.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

The Prince of Ch'ing to Chargé Fletcher.

No. 392.]

FOREIGN OFFICE,

Peking, February 25, 1908.

YOUR EXCELLENCY: The various foreign ministers in Peking have called at the office of the board of foreign affairs on different occasions of late to inquire about the municipal administration of Harbin by the railway authorities, and I therefore have the honor to transmit to your excellency the following exposition of this affair:

In the twelfth moon of last year (January, 1908) a telegram was received from the viceroy of Manchuria to the effect that a municipal council had been established by Russia for the administration of the railway territory at Harbin; that the members of this council were to be elected; and that the various foreign consuls in Harbin were to be given the right to vote.

Upon receipt of this telegram my board sent a dispatch to his excellency, Mr. Pokotilow, the Russian minister, asking him to give the necessary instructions that this new order of things might cease and the municipal regulations be canceled.

A reply was subsequently received from his excellency, Mr. Pokotilow, to the effect that, according to Article VI of the Chinese Eastern Railway agreement, the railway company has an absolute and exclusive right of administering its lands. Consequently the institution of municipal rule by the railway company at the various places where they have acquired territory is in no way contrary to Article VI of the agreement and the rights acquired thereby.

My board thereupon sent a further communication to the Russian minister objecting to the position taken by him in the following terms:

The words, "land required by the company," as used in Article VI of the agreement, mean only the land actually required for the use of the railway. Thereon the company may erect any buildings and may establish a telegraph line, worked by the company, for the company's use; but as regards the matter of protection of the land and maintenance of the peace thereon, the authority for that rests in the hands of the Chinese officials, as witness Article V of the same agreement, which plainly stipulates that "the Chinese Government will take measures for the protection of the line and of the men employed thereon"; and, further, "all crimes and law suits arising on the land of the company will be dealt with by the local officials in accordance with the treaty."

From this it may be seen that the authority to administer the land rests entirely with China. There can be no doubt about it whatever. Therefore the action of the railway company in instituting municipal administrations at any of the various places on the line is evidently a usurpation of China's sovereignty, and it is absolutely impossible for the board of foreign affairs to recognize their rights in so doing.

It becomes my duty to send the above extracts from our records in order that you may be informed of the matter and acquaint the American consuls at Harbin and other places with the situation.

A necessary dispatch.

File No. 4002.

The Secretary of State to the Russian Ambassador.

DEPARTMENT OF STATE,

Washington, April 9, 1908.

EXCELLENCY: The Government of the United States has given the most considerate attention to the memorandum received from your excellency, dated February 4, 1908, in regard to the attitude of the American consul at Harbin concerning the protest of the Chinese Government against the contemplated establishment of municipal administration at Harbin and Hailar by the Chinese Eastern Railway Co. Pains have been taken to ascertain just what has happened at Harbin and especially what the American consul at that post has done regarding the matters referred to.

Upon the best information which this Government has been able to obtain, through official reports and otherwise, it is evident that a very disorganized condition exists at Harbin, and that serious difficulty has been experienced in the maintenance of order, and that there have been serious differences of opinion between the Chinese

Eastern Railway Co. and the foreign residents at that point as to the methods which it was advisable to follow, and it is evident that there is a very great need of some adequate arrangement for the protection of life and property and the maintenance of order. This Government can not fail to recognize and sympathize with the earnest efforts which have been made to bring about such an arrangement, and the United States desires to aid by every means in its power toward the accomplishment of such a desirable end.

There would seem to be no serious obstacle to the direction of a common effort for such a purpose, since the Governments of Russia and the United States are as one regarding the fundamental principle to be observed, as stated in the treaty of Portsmouth and as stated by yourself orally in our conference upon the subject, in terms which meet the entire acquiescence of this Government and which include a scrupulous regard for the sovereignty of China, equal opportunity for trade on the part of both and of all nations, and observance of treaty rights.

This Government can not doubt that a just application of this rule, so fully and universally agreed to, and a sincere and equally universal desire to accomplish the beneficent object sought will make the satisfactory solution of the problem certain, however complicated the conditions of the problem may be.

It would seem, however, that the railroad officials of the Chinese Eastern Railway Co. and the residents of Harbin, naturally intent upon the settlement of their own business interests, in attempting to formulate an arrangement between themselves, have overlooked some inconsistencies between their proposed arrangement and the rules to which I have referred. This Government can not resist the conviction that these inconsistencies flow almost inevitably from the initial error of assuming, as the basis of the proposed arrangement for establishing and maintaining order, the railroad grant made by China to the Chinese Eastern Railway Co. to construct and manage the railway, dated September 8, 1896, instead of taking as the basis of the proposed arrangement the political rights of the residents secured by treaties between China and the several powers.

The grant by the instrument of September 8, 1896, to the railroad company of a right of railroad administration over its own lands could not, even if standing alone, be deemed to carry a right of political administration which would amount to a transfer of sovereign rights; but the same instrument, by the French as well as the Chinese text, contains also an express provision reserving the political jurisdiction over these lands to the Government of China. This view appears to agree entirely with that expressed by the Government of Russia in the declaration of the treaty of Portsmouth—that Russia has no territorial advantages or preferential or exclusive concessions in Manchuria of such a nature as to impair the sovereignty of China or which are incompatible with the principle of equal opportunity.

The action of the American consul in Harbin seems to have gone no further than an informal and oral expression of opinion in accordance with this view, and especially with regard to a proposed ordinance, based upon the railroad concession, prohibiting foreigners to trade except upon receiving a license under the proposed municipal government, and a further ordinance subjecting all foreigners to

the criminal jurisdiction of municipal courts not of their own nationality, both of which provisions would be a clear infringement upon the sovereignty of China and a deprivation of the rights which China has secured by treaty to the United States, under which the citizens of the United States in China are entitled to reside and trade and to be subject only to the jurisdiction of their own extraterritorial courts.

Fortunately, the fact that political authority can not be derived from the grant to the railroad company does not leave the foreign residents in Harbin without opportunity to secure for themselves a method of maintaining order suited to their western customs and ideas and the protection of courts administering their own laws. The sovereignty of China, which all agree exists in Harbin, is subject to the rules of extraterritoriality established by China's own treaties with the several powers. On the basis of this extraterritorial jurisdiction, the scope and limits of which are well understood, it would seem practicable to work out in Harbin, as has been done in the other treaty ports of China, a satisfactory and effective local government.

This course would not merely have the advantage of resting upon a sound basis of unimpeachable right, but, following well-understood precedent, would not excite among the people of China apprehensions of infringement upon her sovereignty and misunderstandings as to the purpose of the powers which, like both the United States and Russia, desire sincerely to preserve that sovereignty intact.

Toward the working out of such a result this Government would be glad to contribute, and to that end will give appropriate instructions to its representatives in China.

Accept, etc.,

ELIHU ROOT.

File No. 4002/110.

Memorandum from the Russian Embassy.

IMPERIAL RUSSIAN EMBASSY,
Washington, June 9, 1908.

According to a telegram received April 26, last, by his excellency, Mr. Iswolsky, from the Russian consul general at Harbin, the United States consul at that place not only continues to maintain his original protest against the establishment of a municipal government at Harbin, but appears to be resolutely hostile in general to the exercise of administrative rights by the railroad and to the whole order of things which has been established for a long time in that locality.

Considering the Russian settlement of Harbin as a port open to foreign commerce, and taking the Portsmouth treaty as his basis, Mr. Fisher refuses to recognize the rights of a private company to exercise administrative authority over foreigners, and protests against the election to the municipal council of two members representing the railroad company, as well as against placing the municipal administration under the control of this company; he also categorically refuses to have any dealings with the municipal administration through the railroad company, as mentioned. According to him, the only authority who could act as intermediary in such a case is the consul general of Russia, who ought, in his opinion, to be at the head of the

municipal administration as representative of the Russian Government independent of the railroad.

The American consul will likewise not admit that the Russian judicial and police authorities are to be permitted to conduct the preliminary proceedings in judicial actions in which the defendants are foreigners, nor to make searches in the houses of such foreigners, who are under the jurisdiction of their consuls, or, in default of such, of the territorial Chinese authority. He also considers that the police have no right to demand that foreigners be provided with passports. Deeming it illegal for foreigners to be compelled to sign a written pledge to submit to the regulations and taxes established by the municipal administration and by that of the railroad, Mr. Fisher declares that he can not lend his support to these institutions in this matter, and would even consider himself obliged to refuse his protection to American citizens who had undertaken such a pledge in writing.

Without entering upon a substantial discussion of the questions raised by the United States consul at Harbin, the Imperial Government can not refrain from stating that the uncompromising views of Mr. Fisher are not in conformity with the conciliatory tone which has characterized the exchange of views on this question between the two governments.

The Imperial Cabinet would consequently be glad to know to what extent the stand taken by the American consul at Harbin corresponds with the views of the Federal Government on this question.

File No. 4002/110.

Memorandum to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, July 2, 1908.

The Government of the United States has taken due note of the memorandum, dated June 9, 1908, from the Imperial Russian Embassy, protesting further against the action of the American consul at Harbin, China, in the matter of the establishment of a municipality by the Chinese Eastern Railway Co. at that place, and setting forth in detail the scope of the jurisdiction which this company proposes to exercise over foreign and Chinese residents within the railway lands. The memorandum also states that the Imperial Cabinet would be glad to know to what extent the stand taken by the American consul corresponds with the views of this Government on the subject.

The Government of the United States would greatly regret to find that its consul has taken any course which was not in conformity with the conciliatory tone which has characterized the exchange of views between the Governments of Russia and the United States on the questions which have arisen at Harbin; moreover, if it should be found the consul had so acted, his attitude would be altogether inconsistent with the sentiments which actuate the Government of the United States.

A careful and thorough inquiry will be prosecuted, and although the hope is entertained that the complaint of the Russian Government is the result of some misunderstanding, the Government of the United States, upon the full ascertainment of the facts, will not fail to take such a course as is consistent with its strong desire to render assistance toward aiding in the maintenance of order in Harbin, which

was expressed in a former note on the subject transmitted to his excellency, the Imperial Russian ambassador, on April 9, 1908.

The department, however, begs to call attention to the fact that, to a very considerable degree the attitude taken by the consul would appear to be in accordance with the views expressed by the Government of the United States in the aforesaid note. From the character of the complaints of the consul's action, the railway officials at Harbin would still appear to be basing their claims to the exercise of governmental rights upon the railroad concession, which would be inconsistent with the principle contained in the note of April 9, last.

This principle, which this Government conceives to be the true one, is, in substance, that the only basis for the exercise of governmental rights on the part of the officials of any country other than China within the Chinese Empire should lie in the extraterritorial rights granted by the treaties of China with the several powers.

File No. 4002/110.

The Secretary of State to the Russian Ambassador.

DEPARTMENT OF STATE,
Washington, December 29, 1908.

EXCELLENCY: You will recall, that in response to a memorandum of June 9, the Imperial Russian Embassy was, on July 2, assured of the regret with which the Government of the United States would learn that the American consul at Harbin had really failed faithfully to reflect the views of his Government upon certain questions referred to in the embassy's memorandum.

The reasonable and conciliatory views of the United States upon the situation at Harbin, in which it is our duty to take keen interest, are well known to your excellency through the candid explanation made both by correspondence and on the occasion of the conversations which I had the pleasure to hold with you last spring. These views were set forth in some detail in the note of April 9, to which allusion is made in the memorandum to which I have now the honor to reply.

The promised thorough analysis of the attitude of Mr. Fisher as regards the points in question has now been completed, and I am happy to find justified the hope formerly expressed that any inconsistencies in the consul's course were apparent rather than real. Being now fully advised of the action of Mr. Fisher, I am glad to be able to inform your excellency that it is found to have been entirely in accord with the views of this Government, views which I think we are agreed are in no essential detrimental to the real interests, or repugnant to the well-known policy of the Imperial Russian Government. I may add that, under these circumstances, the department has naturally been constrained to approve Mr. Fisher's course.

Adverting to the more recent reports from Harbin, moreover, I would add that this Government has learned with regret that the superintendent of the railway company has been placed, even temporarily, in charge of the Russian consulate general at Harbin; for this step would make toward the further tendency, upon a theory which seems to us without foundation, to exercise authority under the railway's concession.

Turning now to the actual situation at Harbin, which is of such practical importance to Russia and of such great interest in principle to the United States, I have the honor to request that the Imperial Russian Government will kindly consider the suggestions made by the United States with a view to the attainment of order through a municipal administration based upon the treaty rights of the foreign powers. The fullest consideration of the subject impels me to urge that course instead of an undertaking to maintain government based directly or indirectly upon what we conceive to be the unsupported claim of administration under the concession of the railway company.

In asking the serious consideration of this suggestion, therefore, I would point out also the fact that inasmuch as the Russian residents are now in great preponderance at Harbin, the creation of a municipality regularized under the treaties and of unquestioned jurisdiction would for the time being differ but little in practical effect from an administration claiming authority through the railway grant. The arrangement suggested would, however, have the great advantage of being different in principle in that it would exclude the claim of political rights under the railway concession. As your excellency is aware, the recognition of such rights might have important and far-reaching consequences. Desiring to avoid these, the Government of the United States could not acquiesce in an arrangement whose potentiality might hereafter so seriously affect American citizens.

At our last interview, when there appeared so immaterial a divergence in our view of the subject, your excellency was looking forward to full discussion of this matter with the minister for foreign affairs upon your return to St. Petersburg. This reflection makes me only the more secure in my expectation that your Government will favorably receive a suggestion which is so evidently regardful of the interests of all concerned and so entirely consistent with the declared policy no less of Russia than of the United States and the other powers having treaties with China.

I avail, etc.,

ELIHU ROOT.

File No. 4002/209-210.

Minister Rockhill to the Secretary of State.

[Extract.]

No. 1154.]

AMERICAN LEGATION,
Peking, May 19, 1909.

SIR: In my cablegrams of the 20th of February¹ and the 2d of March,¹ respectively, I informed the department of the early arrival in Peking of Gen. Horvath, general manager of the Chinese Eastern Railway and acting consul general of Russia at Harbin and of the Tao-t'ai of Harbin, for the purpose of discussing the question of the administration of Harbin and the rights of China in the zone of the Chinese Eastern Railway Co.

Immediately on the arrival of Gen. Horvath in Peking on March 15 he and the Russian minister called on and asked me to state the objections of my Government to the present methods of municipal

¹ Not printed.

administration at Harbin and its suggestions concerning a satisfactory settlement of the question. This I did, basing my remarks entirely on the notes exchanged by the department with the Russian ambassador in Washington, copies of which the department had sent me. Gen. Horvath assured me that he had no objection to raise against the principle of an international settlement at Harbin and that he would be pleased to consider in a conciliatory spirit any propositions the Chinese might have to make on the subject, though he was not empowered at present to conclude any definite arrangement with the Wai-wu Pu.

The same day I went to the Wai-wu Pu and saw President Liang Tun-yen. He told me that he just had a conversation with the Russian minister and Gen. Horvath, and that they had readily agreed in principle to the creation of an international settlement at Harbin. He said he had told them that he would submit to them a draft of the Chinese Government's views on the subject. He said that he did not anticipate much trouble in reaching a satisfactory agreement concerning Harbin, but that the questions of municipal administrations in other localities along the line of the Chinese Eastern Railway, where there were a few Russians only and a large Chinese population, was more difficult of adjustment, but he felt very hopeful of reaching an understanding with the Russians.

On the 24th of April I was told by the Harbin Tao-t'ai that an understanding had been reached with the Russians. The signing of the arrangement was put off from day to day until the 11th instant, when it was signed by the representative of the Chinese Eastern Railway Co. and the Russian minister and by Liang Tun-yen, president of the Wai-wu Pu; the Tao-t'ai of Harbin, Sze Sao-ki (Shih-chao-chi), and Yu Szu hsing.

At the same time as the preliminary arrangement was signed notes were exchanged between the Wai-wu Pu and the Russian minister recognizing the principle, which Russia agrees fully to respect, of complete Chinese sovereignty over the leased territory and that the rights and privileges enjoyed by the subjects of other powers under the treaties between China and other nations are fully preserved to them in the same zone.

On the 14th instant a copy of the agreement and the text of the notes were sent me by the Tao-t'ai of Harbin, and on the 15th the Russian minister also handed me a copy of the arrangement.

I inclose herewith copy of the French text of the arrangement, with an English translation of the same, and copy of the text of the notes exchanged between the Russian minister and the Wai-wu Pu.

I have, etc.,

W. W. ROCKHILL.

[Inclosure 1—Translation.]

Preliminary arrangement.

[Original in French, Chinese, and Russian.]

Differences of opinion having arisen concerning the interpretation of the contract for the construction and exploitation of the Chinese Eastern Railway, made in the twenty-second year of Kuang Hsü eighth moon, second day (27th August, 1896), the Governments of China and Russia have agreed on the subject of the organization

of municipalities upon the lands of the said railway upon the following general provisions:

I.

As a fundamental principle, the sovereign rights of China on the lands of the railway are recognized without any prejudice whatsoever.

II.

China takes all measures emanating from her sovereign rights on the lands of the railway. Neither the railway administration nor the municipalities shall under any pretext whatever oppose these measures in so far as the said measures are not in contravention of the contracts concluded with the Chinese Eastern Railway Co.

III.

The contracts of the Chinese Eastern Railway actually in existence remain in full force.

IV.

The laws or ordinances and legislative measures resulting from China's sovereign rights shall be drawn up and published by Chinese officials in the form of proclamations.

V.

High Chinese officials and official agents visiting the lands of the railway shall be received by the management of the railway and the municipalities with all due consideration and respect.

VI.

Municipal organizations shall be established in the important commercial centers situated on the lands of the railway. The inhabitants of the commercial centers, according to the importance of the localities and the number of the inhabitants, shall name by election delegates who shall choose an executive committee; or, the inhabitants themselves shall participate in municipal affairs and a representation from among them shall be elected, who shall be charged with the execution of the resolution adopted by the assembly of all the inhabitants.

VII.

There is not the slightest difference made upon the lands of the railway between the Chinese population and that of other nationalities; all the inhabitants enjoy the same rights and are subject to the same obligations.

VIII.

Every member of the community who is the owner of real (property) of a fixed value or who pays a fixed annual rent and tax shall have the right to vote.

IX.

The president is elected by the assembly of delegates and chosen from amongst themselves regardless of nationality.

X.

The assembly of delegates is competent to pass upon all local questions of public utility. Institutions in which a part only of the inhabitants is interested—such as churches, chambers of commerce, schools, charitable institutions, etc.—shall be supported by that portion of the inhabitants by means of assessments.

XI.

The assembly of delegates chooses from amongst its members, and without distinction of nationality, the members charged with the management of municipal affairs; not to exceed three in number. In addition, the president of the Chiao She Chu and the director of the railway shall each appoint a delegate. The delegates and the above-mentioned members, including the president, shall constitute the executive committee.

XII.

The president of the assembly of delegates is at the same time president of the executive committee.

XIII.

The president of the Chiao She Chu and the director of the railway, occupying a position superior to that of the presidents of the assemblies of delegates and of the committees, have the power of control and personal revision, which they may exercise when they deem it necessary. The delegates mentioned in Article XI present to them reports on current affairs. Besides, all the resolutions passed by the assembly of delegates shall be submitted to the joint approval of the president of the Chiao She Chu and the director of the railway, after which these resolutions shall be published in the form of a notice in the name of the executive committee and become binding on all the inhabitants whatever their nationality may be.

XIV.

In case the resolutions of the assembly of delegates should not be approved by the president of the Chiao She Chu or the director of the railway, these resolutions must be returned to the assembly for reconsideration. If the same resolution is adopted by a majority of three-fourths of the members present it becomes binding.

XV.

Important questions concerning the public interest or the municipal finances in the commercial centers upon the lands of the railway shall be submitted, after discussion in the assembly of delegates, to the examination and approval of the president of the company (high Chinese official according to Article I of the contract of 1896) conjointly with the principal administration (board of directors) of the Chinese Eastern Railway Co.

XVI.

The Chinese Eastern Railway Co. has the free administration of the lands specially affecting the service of the railway, such as stations, workshops, etc. All the other lands of the railway company not leased to others, as well as buildings reserved for the exclusive use of this company, if these lands and buildings have not been transferred to the municipalities in accordance with the plans agreed upon, shall be temporarily subject, as heretofore, to the administration of the said company. The lands in this category shall be provisionally exempt from taxes, etc.

XVII.

The foregoing general arrangements are to serve as a base for the elaboration of a detailed arrangement concerning the municipalities and the police; likewise the rate of taxation shall be determined. It is agreed to proceed to the elaboration of this arrangement within a month from the date of the signature of the present agreement (11th May, 1909).

XVIII.

Until the detailed arrangement concerning the municipal organizations have been elaborated and put into effect the municipalities shall conform provisionally to existing regulations, with the application of Article XIII of the present agreement relative to the rights of control of the president of the Chiao She Chu and the director of the railway with respect to the municipalities. If the president of the Chiao She Chu and the director of the railway shall not approve the decisions of the assembly of delegates, and if, after an exchange of views, an agreement can not be reached by these officials, two special delegates shall be separately elected by the inhabitants, Chinese and foreign. The president of the Chiao She Chu and the director of the railway conjointly with these two delegates shall choose a fifth person, Chinese or foreign, who enjoys the general esteem, in order to form a committee to discuss and arrange the difference by agreement. The Chamber of Commerce at Harbin is authorized to name three members, who shall form part of the executive committee of the city and have the same part in the management of affairs as the other members of the said committee. The chambers of commerce of the communities of Manchuria and Hailar shall each choose two delegates, who will form part of the respective committees. In the other commercial centers where there exist only general assemblies the Chinese and Russian

population shall take equal part in the administration of municipal affairs. The elections for the assemblies and committees shall take place in accordance with the new detailed arrangement as soon as the same shall have been elaborated.

The text of this arrangement has been rendered in the Chinese, Russian, and French languages, and there exists four copies of it in each language. Each of these copies has been duly signed and bears the respective seal of the parties interested.

In case of disagreement the French text alone shall be authoritative.

Done at Peking the first year of Hsüan T'ung, third moon, twenty-first day (27th April, 1909).

Signed (May 11, 1909).

LIANG TUN YEN.

SZE SAO KE.

YU SZU HSING.

J. KOROSTOVETZ. [L. S.]

D. HORVATH. [L. S.]

[Inclosure 2—Translation.]

Notes exchanged between the Wai-wu Pu and the Russian minister at the time of the signature of the preliminary arrangement of May 11 for the municipal organizations in the zone of the Chinese Eastern Railway.

The Wai-wu Pu to the Russian minister.

In regard to the recognition of the leased railway territory as Chinese territory, the general principle has been established that Chinese sovereignty suffers no loss or diminution. The rights and privileges enjoyed by subjects of other powers under the treaties between China and other nations are to be fully preserved. This must be clearly stated in order to avoid future misunderstandings.

To this end the two Governments now make this exchange of notes.

The Russian minister to the Wai-wu Pu.

The leased territory of the Manchurian Railway is Chinese territory and Chinese sovereignty therein is now fully recognized. A general agreement for the establishment of municipal councils has to-day been signed and sealed.

I now clearly state that my Government will fully respect within the limits of the leased territory the rights and privileges which the subjects of other powers enjoy under the treaties between China and the other powers.

File No. 4002/223-225.

Chargé Fletcher to the Secretary of State.

No. 1198.]

AMERICAN LEGATION,
Peking, July 3, 1909.

SIR: Confirming the telegrams recently exchanged with the department and continuing Mr. Rockhill's No. 1154, of May 19 last, I have the honor to inclose copy of the note which I have addressed to the Wai-wu Pu, under date of June 23, on the subject of municipal organizations on the lands of the Chinese Eastern Railway Co.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

Chargé Fletcher to the Prince of Ching.

AMERICAN LEGATION,
Peking, June 23, 1909.

YOUR IMPERIAL HIGHNESS: Copies of the notes exchanged on the 11th of May last between your highness' board and the Russian minister recognizing the full sovereignty of China over the land leased to the Chinese Eastern Railway in the three eastern provinces, and pledging the two Governments to maintain therein all the rights and privileges enjoyed by subjects of other powers under the treaties between China and said powers, and the text of the preliminary arrangement signed on the same date, have been submitted by this legation to the Government of the United States, which

has now instructed me to convey to your highness an expression of the gratification it feels in the terms of the notes exchanged on May 11.

As regards, however, the preliminary arrangement signed on the same date, inasmuch as numerous provisions of it appear to conflict with the said treaty rights, the Government of the United States finds it impossible to accept this preliminary arrangement as binding upon it or its citizens, and I am instructed to point out, with reference to the said preliminary arrangement and the detailed regulations to be elaborated as mentioned in Article XVII thereof, that rules for the government of international municipalities in China must receive the approval of the treaty powers before they can be made applicable to foreign subjects.

I have the honor to suggest, therefore, that these regulations should be drawn up in consultation with the diplomatic and consular authorities of the treaty powers.

I avail, etc.,

HENRY P. FLETCHER.

File No. 4002/195-197.

The Secretary of State to Ambassador Riddle.

DEPARTMENT OF STATE,
Washington, August 6, 1909.

SIR: Referring to your dispatch No. 484,¹ of June 4, 1909, transmitting a Russian press version of the preliminary arrangement concluded between the Chinese Government and the Chinese Eastern Railway Co. at Peking on April 27-May 10, 1909, in regard to the municipal administration of Harbin, I have to transmit herewith² for your information copies of notes exchanged at the time of the signature of the arrangement by the Wai-wu Pu and the Russian legation in Peking in which complete Chinese sovereignty over the lands leased by the railway company is recognized and the rights of subjects or citizens of other powers under treaties with China are fully guaranteed in the railway zone.

The preliminary arrangement, while eliminating some of the objectionable features of the former regulations and providing for a share in the supervision of the municipal organization by an official representative of China, still vests in the manager of the Chinese Eastern Railway Co. at Harbin and the board of directors at St. Petersburg virtual control over all important acts of the municipality, and it is further provided that pending the elaboration of a detailed scheme of administration the former intolerable regulations shall remain in full force. No provision is made for securing the approval of municipal regulations either by the local consuls or by the diplomatic representatives of the interested powers in Peking.

The agreement thus conflicts with some of our most important rights, and this Government therefore finds it impossible to recognize it as in any way binding upon the United States or its citizens.

Under instructions from the department the American chargé d'affaires in Peking addressed to the board of foreign affairs on June 23, 1909, a statement expressing gratification at the terms of the notes exchanged by China and Russia but at the same time informing the Chinese Government that, for the reasons set forth, the preliminary arrangement could not be accepted by the United States. A copy of this note is inclosed herewith, and as it seems important that both parties should be equally informed of the sentiment of the Government of the United States on this subject you are instructed to make similar representations to the Russian Government, at the same time emphasizing the desire of the United States to cooperate

¹ Not printed.

² See Mr. Rockhill's dispatch No. 1154, May 19, 1909, p. 208.

in every possible way with the Russian and other Governments interested in the maintenance of good order and the improvement of the conditions of life in the foreign settlements in Manchuria.

While it is not necessary to take up all the details of the new regulations at this time, it is desired that you find suitable occasion to express to the Russian Government the hope that means may be found to remove all restrictions upon the transfer of the long-term leases upon which most of the land in Harbin occupied by private individuals is held. These leases run for the remainder of the term for which the railway holds its whole concession (to Jan. 1-14, 1983) and contains a clause by which the sanction of the railway company is required for their transfer. The railway company is thus given the power to dictate who shall be allowed to settle in Harbin. The waiving of this clause is therefore most important if Harbin is to become in fact an open port. As some of these leases run for 80 years or more the opinion has been expressed that they are illegal under the Russian law which provides a maximum term of 12 years for land leases.

In view of the complete accord that Russian representatives have from time to time expressed with the position taken by the United States in regard to the principles underlying the whole question of the administration of the settlements in Manchuria, the department hopes that before the time comes to put into operation the scheme of self-government for those settlements means may be found to correct these details in the interest of an harmonious and effective administration to which all the powers may be able to give their fullest support.

I have, etc.,

P. C. KNOX.

File No. 4002/195-197.

The Acting Secretary of State to Chargé Fletcher.

No. 617.]

DEPARTMENT OF STATE,

Washington, August 10, 1909.

SIR: I inclose herewith¹ for the information of the legation, a copy of an instruction sent to the embassy in St. Petersburg, with which were inclosed copies of the notes exchanged between the Wai-wu Pu and the Russian minister in Peking, and a copy of your note to the Foreign Office, all relative to the preliminary agreement signed at Peking on April 27-May 10, 1909, providing for the municipal administration of Harbin.

I am, etc.,

ALVEY A. ADEE.

File No. 4002/209-210.

The Acting Secretary of State to Chargé Fletcher.

DEPARTMENT OF STATE,

Washington, August 11, 1909.

SIR: I have to acknowledge the receipt of Mr. Rockhill's No. 1154, of May 19, 1909, informing the department of the course of the negotiations at Peking between Russia and China in regard to the municipal administration of Harbin, and inclosing the text of the new agreement concluded and of the notes exchanged between the Chinese foreign office and the Russian legation.

¹ Supra, Aug. 6.

The department has read with great interest the very complete account of the negotiations and approves the attitude assumed by the legation in the matter.

I am, etc.,

ALVEY A. ADEE.

File No. 4002/223-225.

The Acting Secretary of State to Chargé Fletcher.

No. 619.]

DEPARTMENT OF STATE,
Washington, August 12, 1909.

SIR: I have to acknowledge the receipt of your No. 1198 of the 3d ultimo, regarding the municipal administration of places along the line of the Chinese Eastern Railway, and inclosing a copy of the note addressed to the Wai-wu Pu by you on June 23, 1909.

The department has read your dispatch with interest and approves your note to the Wai-wu Pu and the verbal statement which you report having made to the Russian minister as to the objections of this Government to the new agreement.

I am, etc.,

ALVEY A. ADEE.

File No. 4002/234-235.

Ambassador Riddle to the Secretary of State.

No. 535.]

AMERICAN EMBASSY,
St. Petersburg, September 4, 1909.

SIR: I have the honor to acknowledge the receipt of your unnumbered instruction of August 6 last, relative to the municipal administration of Harbin, and inclosing copies of notes exchanged between the Russian minister and the Wai-wu Pu and also of Mr. Fletcher's note to Prince Ching of June 23 last.

Herewith I inclose a copy of my note to the Russian foreign office in accordance with your instructions.

As I have not seen the official text of the preliminary arrangement signed on May 11 last, I thought I could not do better than adopt the text of Mr. Fletcher's note to the Chinese Government, making only a few necessary alterations.

The acting minister for foreign affairs of Russia, in reply to my oral representations made to him on the subject of restrictions upon the transfer of the long-term leases at Harbin, said that he was not familiar with the details of the question, but that he thought it was better that all the treaty powers interested should give their views on the subject of the various questions involved at Harbin, and that early opportunity would be given for a complete discussion of the provisions of the detailed scheme of administration which is to supplant the preliminary arrangement.

I have, etc.,

J. W. RIDDLE.

[Inclosure.]

Ambassador Riddle to the acting minister for foreign affairs.

AMERICAN EMBASSY,
St. Petersburg, August 17-30, 1909.

EXCELLENCY: Copies of the notes exchanged on May 11 last between the Wai-wu Pu and the Russian minister to China recognizing the full sovereignty of China over the land leased to the Chinese Eastern Railway in the three eastern provinces and pledging the two Governments to maintain therein all the rights and privileges enjoyed by subjects of other powers under the treaties between China and said powers were duly communicated to the Government of the United States, as was

also the text of the preliminary agreement signed on the same date by the Wai-wu Pu, the Russian minister, and a Russian representative of the Chinese Eastern Railway, outlining the plan of organization of the international settlements to be opened on the lands leased to the said railway.

The Government of the United States has instructed me to convey to your excellency an expression of the gratification it feels in the terms of the notes exchanged on May 11.

As regards, however, the preliminary arrangement signed on the same date, inasmuch as numerous provisions of it appear to conflict with the said treaty rights, the Government of the United States finds it impossible to accept this preliminary arrangement as satisfactory or to recognize it as in any way binding upon it or its citizens.

Since, however, Article XVII of the preliminary arrangement indicates that it is to be very shortly replaced by detailed regulations for the government of the municipalities to be created at the treaty ports within the railway leased zone the Government of the United States directs me to state that it fully expects that the practice which has heretofore been uniformly observed in China with regard to the elaboration of rules to govern international settlements at treaty ports will be followed in the present case, and that the United States will be given full opportunity to discuss with the other parties interested the terms and conditions to govern the same and to determine that all the aforesaid rights and privileges guaranteed its citizens are duly and amply secured to them.

As the regulations for the proposed international settlements can only become operative after their acceptance by all the treaty powers, it appears to the Government of the United States that, in the interest of a prompt and satisfactory settlement of the various questions involved, it is eminently to the interest of all that the full and complete discussion now asked for be accorded at the earliest possible date, so that all unnecessary delay in putting them into operation may be avoided.

I avail, etc.,

J. W. RIDDLE.

File No. 4002/234-235.

The Acting Secretary of State to Ambassador Riddle.

DEPARTMENT OF STATE,
Washington, September 27, 1909.

SIR: I have to acknowledge the receipt of your No. 535, of the 4th instant, with which you inclose a copy of your note to the Russian foreign office relative to the preliminary arrangement signed at Peking on May 11 last, providing for the municipal administration at Harbin.

The department approves the representation that you made to the foreign office in this connection.

I am, etc.,

ALVEY A. ADEE.

File No. 4002/245-249.

Chargé Schuyler to the Secretary of State.

No. 560.]

AMERICAN EMBASSY,
St. Petersburg, October 9, 1909.

SIR: With reference to my telegram to you under date of yesterday,¹ I have the honor to transmit to you herewith in duplicate a translation of the note verbale and aide-mémoire which I have received from the ministry for foreign affairs concerning the situation at Harbin.

I also inclose the text of the arrangement of April 27 (May 10) last,² which I had asked the foreign office to send to the embassy, as the only text we had seen was that published in the newspapers here at the time of the conclusion of the arrangement.

I have, etc.,

MONTGOMERY SCHUYLER.

¹ Not printed.

² See Mr. Rockhill's No. 1154, May 19, 1909. 208.

[Inclosure 1—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
FIRST DEPARTMENT,
September 23 (October 6), 1909.

The legal situation of Harbin having occasioned of late certain misunderstandings, most unfortunate for the establishment of order and the development of international trade in that town, the ministry for foreign affairs has the honor to transmit to the American embassy an aide-mémoire giving the views of the Imperial Government on this question.

The text of the convention signed at Peking on the 27th of April (10th of May) last is also inclosed.

[Inclosure 2—Translation.]

AIDE-MÉMOIRE.

The representatives of several powers having commercial interests in China have expressed, both at Peking and St. Petersburg, their doubts on the administrative rights actually exercised at Harbin by the local municipality.

In the notes presented on this subject to the Governments of China and Russia, as also in their oral communications, these representatives have endeavored to show that certain articles of the convention signed in Peking on the 27th April (10th May) last conflicted with the exterritorial rights insured to their national by the treaties with China, and that these articles, as well as certain administrative measures taken at Harbin, were violative of the "international concession" régime, which, in their opinion, had been recently established in that town.

It is easy to prove that this point of view is based on a misunderstanding, for, in the first place, exterritorial rights, in so far as accorded by treaties, only include the right for every foreigner to be tried by his own consul, but in no wise relieve him of the duty of paying municipal and other taxes and of obeying the régime existing in the locality where he resides.

Now, these régimes are not uniform in China and vary according to the type of concession adopted in the various ports in virtue of special conventions with China on the subject. Thus, at Tientsin and at Hankow each nationality has its own concession; at Shanghai the concession is international; at Tsinanfu, Soochow, Ningpo, and other places there are no European concessions; the administration is purely Chinese. One rule only is common to all localities open to foreign commerce in China, and that is that all foreigners wishing to reside there are required to submit to existing regulations and taxes, while retaining in their entirety their exterritorial judicial rights.

The difference between purely Chinese open ports, in which there are no concessions or foreign settlements, and those opened on the lands of the Chinese Eastern Railway consists in the Chinese authorities having in the first category of ports full and complete liberty to establish such administrative rules as they see fit. In the second category they are bound by the contract of August 16-28, 1896, article 6 of which provides that the railway company "shall have the absolute administrative right of administration over its own lands," and by the convention of April 27 (May 10) last, the object of which is to affirm and amplify the above-mentioned contract. By these two arrangements China delegated its right of administration over the lands of the railway to a Russo-Chinese company acting as a private concessionary. Consequently the company in exercising control in Harbin and the other localities on its lands acts as the representative of China. And as in open ports in the interior of China foreigners are obliged to submit to the rule for civil life established there by China, except as regards jurisdiction, so likewise are they required to accept the conditions created by the two previously mentioned arrangements.

In so far as this condition affects international relations it is in absolute agreement with the principles of the treaty of Portsmouth. During the negotiations for this treaty the plenipotentiaries of the two powers, for the purpose of removing all cause of future misunderstanding, declared "that the concession, the building, and the working of the Chinese Eastern Railway in Manchuria are not incompatible with the principle of the open door and of equality of treatment, and that, within the limits of the land secured under the concession, the rights of His Majesty the Emperor of Japan, as well as the nationals of other foreign powers, shall enjoy the same rights and privileges as those of His Majesty the Emperor of Russia."

So it appears that the treaty of Portsmouth only imposes upon Russia the duty of giving to all foreigners on the railway lands the same rights as to Russian subjects.

This duty is strictly discharged by the régime established on the land of the railway company by which foreigners enjoy there absolutely the same civil rights, including that of taking part in the municipal administration.

Another misunderstanding appears to have called forth the assertion that Harbin had been recently transformed into an "international concession." There is reason for positively affirming that such was never the intention of the two contracting parties, and that this term has never even been used in the correspondence exchanged between them, nor in the convention of the 27th of April (10th of May).

For the purpose of clearly defining the peculiar legal situation of Harbin, it is perhaps useful to take a retrospective glance at the various juridical phases through which this question has passed in reaching its present one.

Having erected on its lands and at its expense the town of Harbin, the railway company undertook, in accordance with article 6 of the convention of 1896, the duty of administering this city.

Later on, as the Chinese population at Harbin increased, and as article 6 of the above-mentioned contract, which had been originally drawn up in rather vague terms, was giving rise to misunderstandings between the municipal administration and the Chinese merchants, the railway company took up negotiations with the Chinese Government for the purpose of defining (*préciser*) its rights as stipulated in article 6. These negotiations ended in the signing of the convention of April 27 (May 10), which, far from impairing the contract of 1896, serves on the contrary to confirm and amplify it. It changes nothing in the legal situation established by the above-mentioned contract, while it opens wide the door to foreigners without distinction of nationality, and gives them not only the right to reside in this town but also to participate therein, on the same footing as Russians and Chinese, in the municipal government.

At the same time Russia put no obstacle in the way of foreigners residing in Harbin of enjoying the privileges provided for by the treaties with China by which the jurisdiction over foreigners belongs exclusively to their consuls, provided, however, the latter are furnished by their Governments with explicit instructions defining the duty of their nationals to submit, like the rest of the population, to all the regulations and rules of the local administration authorities as regards taxes and dues fixed for this population, as well as sanitary and other measures.

It is therefore evident from what precedes that Harbin, as a result of the juridical acts concerning it, as well as of the traditions and local circumstances which have successively affected it, differs from all other settlements existing in China, particularly as regards its exceptionally liberal and hospitable rule in connection with foreigners.

Finally, it should be remarked that the misunderstandings which have recently arisen as a result of a too loose drafting of article 6 have brought about in the territory of the Chinese Eastern Railway and unsettled condition of things which takes from the Russian and foreign populations the certainty of being able to settle there permanently and to build up good business relations. This condition of things is changed completely by the convention of April 27 (May 10) and the forthcoming regulations concerning the civil administration on the territory of the railway. Thanks to these arrangements there will be no obstacles in the way of developing on these lands civil and commercial life. It is consequently to the very interest of the powers to aid in the prompt conclusion of the negotiations now pending between Russia and China and not to put obstacles in their way. Any other attitude would tend to perpetuate the state of disorganization which prevails in the towns situated on the railway lands and would render impossible the keeping up of those towns by the company, which could clearly not undertake to do so at its own expense.

File No. 4002/249a.

Note verbale to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, November 6, 1909.

The Russian chargé d'affaires called at the Department of State on October 21 and communicated the views of his Government respecting the future negotiation with China of loan contracts for railway building and other purposes, expressing the desire of the Imperial Russian Government to have Russian capital represented in such loans.

The Assistant Secretary assured the chargé d'affaires that the American Government, being deeply interested in the maintenance of the policy assuring the "open door" in China and the preservation of its territorial integrity, could have no objection to the participation in such future loans by the nationals of any interested Government which is committed to the support of this policy, as is true in the case of Russia.

In this connection, however, it seems important to the Government of the United States that the unfortunate situation growing out of the claim by or on behalf of the Chinese Eastern Railway to the possession of municipal powers in the cities and towns built upon its leased lands should be cleared up without further delay.

The Russian foreign office has recently sent to the American Embassy at St. Petersburg an aide-mémoire¹ upon this subject, which shows a misunderstanding of the attitude of the American Government in relation to this question and which mistakingly assumes that the objections of the United States are based upon the supposed existence of an international settlement at Harbin. It seems necessary, therefore, to restate briefly the view which this Government takes of the situation.

The claim of the Chinese Eastern Railway Co. that China has granted to it the municipal power necessary to the government of all cities and towns built upon the railway's leased land is not considered by the Government of the United States to be justified by the language of the original contract of 1896 between the Chinese Government and the Russo-Chinese Bank, which is the concession under which the Chinese Eastern Railway was built and exists to-day. The administration by the railway company of its leased lands provided for in Article VI of the contract can refer only to such business administration as may be necessary to the "construction, exploitation, and protection" of the railway, these being the objects expressly mentioned in the article for which these lands were granted by China.

This was, without doubt, the understanding of China as evidenced by the Chinese translation of Article VI and by the protest of the Chinese Government against the attempts by the railway company to administer the municipal government of Harbin.

Adverting to the French text of the contract, it is to be observed that the land which is the subject of the provisions of Article VI thereof is precisely:

Les terrains réelement nécessaires pour la construction, exploitation et protection de la ligne, ainsi que les terrains aux environs de la ligne, nécessaires pour se procurer des sables, pierres, chaux, etc.

The second paragraph of Article VI reads:

La Société aura le droit absolu et exclusif de l'administration de ses terrains.

As to the meaning of this word "administration," it seems very worthy of remark that in English the word "administration" is quite commonly used of all sorts of business administration, while the same word in French and the equivalent word in the Chinese version of the contract are still more commonly used of business and nongovernmental administration. Indeed, the French word "administration" is so very commonly used of business management

¹ See inclosure to No. 560, Oct. 9, 1909, from Russia, p. 216.

that its absolute meaning in a given case would be wholly determined by the context.

A reading of the whole contract deprives the second paragraph of Article VI of all semblance of referring to a political administration.

While the first paragraph of Article V says:

Le Gouvernement Chinois prendra des mesures pour assurer la sécurité du chemin de fer et des personnes à son service contre toute attaque.

More suggestive is the third paragraph of the same article, which says:

Cas criminels, procès, etc., sur le territoire du chemin de fer devront être réglés par les autorités locales d'après les stipulations des traités.

It is thus clear that this contract was for the establishment of a business enterprise, and it is impossible to read into it any context from which the use of the word in a political sense could be inferred.

The position of the United States, therefore, briefly stated, is that the claims of the Russian Government on behalf of the Chinese Eastern Railway are out of harmony with the natural interpretation of the text of the agreements referred to, as well as inconsistent with the treaty rights of residence and jurisdiction granted by China to other powers. It is as impossible for this Government to recognize the right of a private corporation to exercise municipal powers as it would be to construe a railway contract into a bestowal of such powers upon a foreign government.

Moreover, the granting by China of such municipal powers as the Chinese Eastern Railway claims to possess would place that railway in position to control all industrial enterprise at the cities and towns along this line and would constitute a breach of the pledges already given by China in various treaties that no monopoly would be allowed to impede the free transaction of business.

The American Government has relied upon the support of the Imperial Russian Government in its efforts to secure the several international agreements giving adherence to the policy of the open door in China, and has been gratified to receive the hearty assurances which the Imperial Russian Government has given at various times in relation to this subject. Article III of the Treaty of Portsmouth states that "the Imperial Government of Russia declare that they have not in Manchuria any territorial advantages or preferential exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity."

File No. 4002/249.

The Secretary of State to Chargé Fletcher.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 9, 1909.

Mr. Knox states that it has been reported to the department that the agreement of last May has been denounced by China, and directs Mr. Fletcher to ascertain the facts and report by telegraph.

File No. 4002/245-248.

The Secretary of State to Ambassador Rockhill.

No. 14.]

DEPARTMENT OF STATE,
Washington, November 9, 1909.

SIR: I have to acknowledge the receipt of your No. 560 of the 9th ultimo, inclosing a copy of an aide-mémoire, handed to you by the Russian minister for foreign affairs, in which reply is made to certain assumed objections of the American Government to the proposed plan of municipal administration at Harbin and at other cities and towns along the Chinese Eastern Railway.

This aide-mémoire shows a misunderstanding of the views of this Government regarding the matter, which have been briefly restated in a note verbale handed to the Russian chargé d'affaires on the 6th instant. At the same time it seemed advisable to call the attention of the Russian Government to certain broader phases of the question under consideration.

A copy of the note is inclosed for your information.¹

I am, etc.,

P. C. KNOX.

File No. 4002/253.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, November 11, 1909.

Mr. Fletcher acknowledges telegram of November 9, and reports that both the Russian minister and the president of the Wai-wu Pu inform him that China has not denounced the agreement of last May, but has officially informed the Russian minister that the treaty rights of the powers will have to be taken into consideration in framing Harbin municipal regulations.

File No. 4002/266.

Chargé Fletcher to the Secretary of State.

No. 1313.]

AMERICAN LEGATION,
Peking, December 6, 1909.

SIR: In continuation of my No. 1292, of the 14th ultimo, on the subject of the municipal administration of Harbin, I have the honor to inclose a copy in translation of a note from Prince Ching inclosing a copy of a circular identic note addressed by the Wai-wu Pu to the representatives of the powers in Peking on the subject of the interpretation of the agreement (1896) for the construction of the Chinese Eastern Railway. This circular note was adduced by the aide-mémoire of the Russian foreign office of September 23 last, which was communicated to the Chinese Government by the Russian minister. The department will note that the Chinese Government strongly repudiates the Russian contentions and emphatically reasserts Chinese sovereignty in the railway territory.

I have, etc.,

HENRY P. FLETCHER.

¹ Supra.

[Inclosure 1—Translation.]

*The Prince of Ching to Chargé Fletcher.*FOREIGN OFFICE,
Peking, December 4, 1909.

YOUR EXCELLENCY: My board has already settled the general rules for the establishment of municipal councils in the Russian railway territory of Manchuria with a view to preserving Chinese sovereignty and to securing the rights and privileges of merchants of all countries. In this we have received much assistance from other nations and we appreciate the friendly spirit shown.

But in the 9th moon (Oct. 14–Nov. 12, 1909) the Russian minister, Mr. Korostovetz, sent us a copy of the circular note issued by his Government, a perusal of which shows that it is at variance with the terms of the original railway agreement and contrary to the rules for the establishment of municipal councils, and opposed, also, to the stipulations of the treaty concluded between Japan and Russia in the American capital. The Chinese Government can not but vigorously protest against it. A circular note has been prepared to be sent to the ministers of all the powers in Peking and a reply has been sent to the Russian minister, Mr. Korostovetz; a copy of the note is now sent to your excellency for transmission to the American Government.

A necessary dispatch.

Inclosure: Copy of note.

SEAL OF THE WAI-WU PU.

[Subinclosure.]

A CIRCULAR NOTE.

The board (of foreign affairs) is in receipt of a note from the Russian minister, Mr. Korostovetz, in which he states that formerly several Governments protested against the rules agreed upon between China and Russia for municipal councils in the railway territory as encroaching upon the extraterritorial rights enjoyed by the subjects of other powers, and that the foreign office of his Government has now issued a circular note to the various powers specifying the rights and privileges which the subjects of other powers dwelling within the railway zone will enjoy under the Russian Government, and explaining the nature of such rights and privileges according to the principles of international law. The minister has forwarded a copy of the circular note.

On reading the circular note we find that the Chinese Government can not assent to its terms. Our reasons for protesting are as follows:

The Russian circular asserts that the treaty ports opened by China are on a different footing from the status of the railway territory; that according to the sixth article of the Chinese Eastern Railway agreement the railway company has full administrative power over the territory occupied; that this is reaffirmed in the rules for the municipal councils; that the powers yielded in the aforesaid agreement are clear and ample, and that after the drawing up of the two agreements the Chinese Government yielded independent control of the railway territory to the Russo-Chinese Company, and the activities of the company in the said territory are those of a lessor under a private agreement; that the powers of sovereignty exercised are clearly indicated; also that when the Japanese and Russian plenipotentiaries were discussing the treaty it was announced that the concession for the construction and working of the Chinese Eastern Railway is not incompatible with the principle of the open door and of equal treatment, and that within the limits of the territory acquired by virtue of the concession the subjects of His Majesty the Emperor of Japan and the subjects of other powers shall enjoy the same rights and privileges as the subjects of His Majesty the Emperor of Russia.

From an inspection of the above it appears that the privileges in possession of Russia concern sovereign powers and she only promises to foreigners impartial treatment. This board, in considering the contents of the circular note, finds that Russia claims to have obtained rights of sovereignty within the territory of the Chinese Eastern Railway, and adduces the two agreements and the statement made to the Japanese and Russian plenipotentiaries as proof, ignoring the numerous false interpretations involved. The Chinese Government has incontrovertible reasons to give against the above statement, which will be given in detail:

1. The first article of the Chinese Eastern Railway agreement states that the Chinese Government will engage in a business enterprise with the Russo-Chinese Bank. The statement is, "will engage in a business enterprise," showing clearly that the affair

is one of business and has nothing to do with sovereignty. The statement is clear and admits of no doubt. But the Russian Government adduces the sixth article of the agreement as proof, which states that the company will single handed have full control, as referring to rights of sovereignty, ignoring the context below the words "full control," which refers to erecting buildings and carrying on engineering work, and putting up telegraph lines, which will be managed by the company for the use of the railway, etc. The company's full powers, according to the agreement, are over the land actually needed for railway purposes, and the powers of the company can not be stretched to cover more than affairs of the railway. The full powers of the company are limited to this and can not possibly be extended to include rights of sovereignty. Unexpectedly the Russian Government has drawn this inference and has affirmed that the sixth article conferred sovereign rights, and although this board had protested against it for several years Russia still persists in making the old claim. Is not this a great error? The above is the first ground of protest on the part of the Chinese Government.

2. Again on the twenty-first day, third moon, of the first year of Hsuan-t'ung (Russian date, Apr. 27, 1909; new style, May 10, 1909), in the rules for municipal councils drawn up between China and Russia, sections 1 to 5 were taken up with the affirmation of China's sovereignty, not allowing the least diminishing thereof, and showing clearly that everything pertaining to the exercise of sovereignty within the railway zone belonged as formerly to China. Now, in the Russian circular note, these articles are misrepresented, together with the stipulations granting powers, and the plain intent is ignored. It is clearly affirmed that Chinese sovereignty is not in the least degree diminished, but Russia turns it to mean that she has obtained special rights of sovereignty. The above is the second ground of the Chinese Government for protest.

3. Again, in the thirty-first year of Kuang-hsü (1905) Russia and Japan made a treaty in America. The third article stipulated that Russia and Japan would "restore entirely and completely to the exclusive administration of China all portions of Manchuria." The Russian Government also stated that Russia "has not in Manchuria any advantages or preferential or exclusive concession in impairment of Chinese sovereignty, or inconsistent with the principle of equal opportunity." How unequivocal are these expressions? "Entirely and completely," "all portions of Manchuria," "exclusive administration," "has not any territorial advantages in impairment of Chinese sovereignty"—how can these be forced to other meanings? Waiving the trade agreements and declarations of China as proof, even the solemn treaty of the two nations is ignored. The above is the third reason of the Chinese Government for protest.

4. From the above considerations the nature of the proofs of the Russian Government may be inferred. They are forced pleading and one sided. This board has explained matters in detail so that all the Governments may fully understand the case from beginning to end.

Again, in the fifth article of the railway agreement it is stipulated that the railway and all the railway employees shall be under the protection of the Chinese Government. It is also stipulated that all cases of murder or robbery and other criminal charges shall be adjudicated by the local officials according to the treaties. So the responsibility of protecting the railway territory rests upon China. Of this there is no shadow of doubt. The whole of Manchuria is still the possession of China, complete and undiminished. The proof is certain and can not be assailed. Moreover, the sovereign power over Harbin and the neighborhood can on no account be yielded to the Chinese Eastern Railway. The Chinese Government now greatly desires to preserve China's rightful sovereignty and also to maintain the rights and privileges of all nations having commercial intercourse with China. Therefore this circular note is issued for the consideration of the Governments of all the nations.

Chargé Fletcher to the Secretary of State.

No. 1323.]

AMERICAN LEGATION,
Peking, December 17, 1909.

SIR: Referring to the subject of the municipal administration of Harbin and in special reference to my No. 1198, of July 3, 1909, with which I inclosed a copy of my note of June 23 to the Prince of Ch'ing with regard to municipal organizations on the lands of the Chi-

nese Eastern Railway, I now have the honor to inclose a copy of the reply of the foreign office to the note referred to.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

The Prince of Ch'ing to Chargé Fletcher.

No. 649.]

FOREIGN OFFICE,
Peking, December 10, 1909.

YOUR EXCELLENCY: On the ninth day of the fifth Moon (June 23) I had the honor to receive your excellency's note regarding the establishment of municipal councils in the railway zone in Manchuria, saying that in the future, when the time came for drawing up the regulations in detail, there should be consultation with the treaty powers.

Just as such action was about to be taken in this matter the Russian minister, Mr. Korostovetz, sent us a copy of a manifesto, to which my board offered strenuous objections, and we prepared a circular note, which has been already sent to your excellency. When China and Russia send officials to Harbin to discuss and settle the detailed regulations above referred to, China will, of course, insist upon the principles laid down in the circular note to safeguard China's rightful sovereignty and will satisfy the solicitude of the treaty powers.

In regard to the request contained in the note from your excellency, it has been already arranged with Mr. Korostovetz that at the proper time the American consul will be notified, and it is hoped that everything will be satisfactorily arranged.

This reply is sent for the information of your excellency and for transmission to the American Government.

SEAL OF THE WAI WU PU.

Consul Greene to the Assistant Secretary of State.

No. 47.]

AMERICAN CONSULATE,
Harbin, December 27, 1909.

SIR: I have the honor to transmit herewith a copy¹ of an unofficial communication, dated October 13, 1909, addressed by the Russian consul general for Harbin, Mr. N. Poppe, to Mr. Gordon Paddock, who was then in charge of this consulate, asking for some suggestion as to how the municipal taxes might be collected from Americans pending the elaboration of the new regulations.

I also inclose a copy¹ of Mr. Paddock's reply, in which he states that he is not authorized to recognize the present municipal council, and therefore can not give a definite answer.

It will be noted that Mr. Poppe states that the Japanese, Chinese, French, and Germans are paying the taxes, the last named under protest. This statement appears to be misleading. The Japanese acting consul general, Mr. M. Ono, informs me that some Japanese are paying the taxes, but that many are not, and that he is not enforcing payment for the present, as he is awaiting instructions from home. He said that the Nichi-Man Sho-kai, who are agents for the South Manchurian Railway Co. here, and occupy premises belonging to that company, have declined to pay the taxes, and he understood that the Mitsui Bussan Kaisha also was not paying. The Chinese are paying the taxes, as I learned from direct inquiries, confirmed by the statement of the Tao-t'ai of Harbin. The German acting consul tells me that he thinks all the German residents have consulted him on this matter and that, so far as he knows, none of them are paying

¹ Not printed.

taxes. The French have not taken such a strong position and have suggested the desirability of paying on account and leaving the final adjustment until the question of the administration is settled. As a matter of fact, however, the French consular agent tells me that no payments have yet been made by French citizens. Some of the French protégés, principally Ottoman subjects, have paid, but others have not. In fact, the French Government has protested to the Russian Government at St. Petersburg against the forcible collection of such taxes last year from a distillery operated by an Ottoman subject. The railway administration has prepared, at the request of the consular agency, a list of the taxes which it wishes to have paid by French citizens, and this list will be forwarded to Peking for the consideration of the French minister.

In view of the fact that the letters referred to herein were nominally personal, I will add that they are transmitted with Mr. Paddock's approval. The Russian consul general's letter was doubtless written with the purpose of ascertaining the position of this consulate prior to the arrival of the Russian minister of finance.

The general manager of the Chinese Eastern Railway, Maj. Gen. Horvath, was to meet the Tao-t'ai on the 14th instant to begin the discussion of the detailed regulations, to be based on the preliminary agreement of last spring, but at the last moment the Russian consulate asked that the conference be postponed on account of the indisposition of the general. Since then Gen. Horvath has appeared in public more than once, but the negotiations have not yet been opened.

I have, etc.,

ROGER S. GREENE.

File No. 4002/264.

The Secretary of State to Ambassador Rockhill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 30, 1909.

Mr. Knox informs Mr. Rockhill that he may represent to the foreign office that the United States desires to avoid embarrassing the Russian Government, and that it has noted with satisfaction the recognition in notes exchanged last May between Russia and China of the principle that Chinese sovereignty suffers no diminution and that rights of other nationals are to be fully preserved, but that certain articles in the preliminary arrangement appear to be inconsistent with these declarations.

Mr. Knox adds that as the principles involved have now been formally recognized by Russia, it seems that the details might be arranged without any special embarrassment.

The Acting Secretary of State to Ambassador Rockhill.

No. 35.]

DEPARTMENT OF STATE,
Washington, January 3, 1910.

SIR: I have to send inclosed for your information copies of dispatches of October 30, November 2, and December 4 from the Legation at Peking, dealing with the situation at Harbin as regards the

claim of the Chinese Eastern Railway Co. to the possession of rights of municipal administration there. There is also inclosed an outline map showing the location of the land on which the railway officials propose to establish an international settlement.

The department is disposed to consider Mr. Fletcher's criticism of this proposal as just. The city of Harbin—that is, all the most available sites for business purposes—would still remain under the administrative control of the Chinese Eastern Railway Co. and the proposed international settlement would probably, owing to its location, remain to a great extent unoccupied, or, if occupied, business houses there would be placed at a great disadvantage. Any such arrangement, moreover, would still be open to the objection which this Government has made from the beginning, that the exercise of municipal powers by the Railway Company is not in harmony with the convention of September 8, 1896, between China and the railway company, and is in violation of the extraterritorial rights of the powers and in violation also of the principle of the open door and equal trade opportunity, to which the Government of Russia has repeatedly committed itself.

You are so thoroughly acquainted with the views of the American Government upon this question that it is unnecessary to enter upon a detailed discussion of the matter. Your attention is called to the clear statement made by the Chinese foreign office in the circular note, a copy of which is inclosed in Mr. Fletcher's dispatch of December 6 last. It is a satisfaction to the department to find its own position thus strongly supported by the Chinese Government.

I have expressed in my cablegram of this date the desire of this Government to avoid embarrassing the Imperial Government of Russia, which, however, it is hoped will instruct the railway company that no exercise of political powers was intended in article 6 of the convention of 1896.

I have to remind you again of the opinion held by the United States Government that the general plan outlined in my cablegram of November 6, through London, for the neutralization of railways in Manchuria, is the most feasible method for the settlement of this vexed question, and I trust you may be able to obtain from the Imperial Russian Government an approval of the principle involved.

I am, etc.,

HUNTINGTON WILSON.

The Acting Secretary of State to Chargé Fletcher.

No. 688.]

DEPARTMENT OF STATE,
Washington, January 5, 1910.

SIR: I have to acknowledge the receipt of your dispatches Nos. 1283¹ and 1284¹ of October 30 and November 2, 1909, respectively, on the subject of the proposed international settlement at Harbin.

The department is disposed to consider your criticism of this proposal as just. The city of Harbin—that is, all the most available sites for business purposes—would still remain under the administrative control of the Chinese Eastern Railway Co., and the proposed inter-

¹ Not printed,

national settlement would probably, owing to its location, remain to a great extent unoccupied, or, if occupied, business houses there would be placed at a great disadvantage. Any such arrangement, moreover, would still be open to the objection which this Government has made from the beginning, that the exercise of municipal powers by the railway company is not in harmony with the convention of September 8, 1896, between China and the Russo-Chinese Bank. Any such arrangement would also be in violation of the extraterritorial rights of the treaty powers, as well as in violation of the principle of the open door and equal opportunity, to which the Government of Russia has repeatedly committed itself.

The department approves of the views expressed by you in conversation with Mr. Korostovetz, the Russian minister, as reported in your No. 1284 of November 2, 1909.

I am, etc.,

ALVEY A. ADEE.

The Acting Secretary of State to Chargé Fletcher.

DEPARTMENT OF STATE,
Washington, January 7, 1910.

SIR: I have to acknowledge the receipt of your No. 1300, of November 20, 1909,¹ reporting that in various conversations which you have had with the Russian minister at Peking the latter has frequently expressed surprise that the American Government should object to the Russian action at Harbin and take no notice whatever of the Japanese regulations regarding residence, etc., along the South Manchurian Railway.

In this connection there is inclosed for your information a copy of an instruction¹ sent to the American ambassador at St. Petersburg on December 7 last, which states very fully the views of this Government upon this question. When occasion offers, you may communicate these views to the Russian minister at Peking.

An examination of the report upon Japanese jurisdiction in Manchuria, to which you refer, fails to show that the South Manchurian Railway is allowed to exercise any political powers, but that, "subject to the Government's permission," it makes "arrangements for engineering works, education, sanitation, etc., within the areas of land belonging to the railway and may collect fees from residents thereon." The truth of this statement is confirmed by an examination of the Government order in the matter. (See Rockhill's Treaties, etc., Vol. II, p. 191.)

The imperial ordinances relating to the government of the leased territory of Kwantung indicate that the police administration over the railway areas is under the control of this Kwantung general government and not that of the railway company. On the other hand, as you are aware, Mr. Straight's No. 207, of February 22, 1908, inclosed a translation of certain regulations concerning branch councils in places along the railway which put the administration of the settlements in the hands of the railway company. It may be urged, however, that the South Manchurian Railway is practically a gov-

¹ Not printed.

ernment railway and that its status is therefore different from that of the Chinese Eastern Railway Co., which is purely commercial and which has been created by a private organization (the Russo-Chinese Bank), itself subject to consular jurisdiction in Manchuria.

The position consistently maintained by this Government is that the claims of the Russian Government on behalf of the Chinese Eastern Railway are out of harmony with the natural interpretation of the text of the agreement of September 8, 1896, between the Chinese Government and the Russo-Chinese Bank, as well as inconsistent with the treaty rights of residence and jurisdiction granted by China to other powers, and that it is as impossible for this Government to recognize the right of a private corporation to exercise municipal powers as it would be to construe a railway contract into a bestowal of such powers upon a foreign government. Should it appear that any other private corporation is making claims similar to those of the Chinese Eastern Railway at Harbin, the attitude of the United States toward such claims would necessarily be determined by the principles just stated.

The department has received no complaints from Americans resident along the South Manchurian Railway of any infringement of their extraterritorial rights nor of any exercise by the company of political powers, and would like to learn whether in your opinion the statement of the Russian authorities that the South Manchurian Railway Co. exercises powers similar to those claimed of the Chinese Eastern Railway Co. is correct.

I am, etc.,

HUNTINGTON WILSON.

Ambassador Rockhill to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, January 15, 1910.

Mr. Rockhill reports that he has received from the American Legation at Peking a copy of a note dated December 10, last, from the Chinese Government stating that by arrangement made with the Russian minister the American consul at Harbin will be notified in due time concerning the detailed regulations, and it hopes everything will be satisfactorily arranged. Mr. Rockhill asks, in view of the fact that a local settlement appears most desirable, if he may defer any discussion with the foreign office as to detailed objections.

The Acting Secretary of State to Ambassador Rockhill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 18, 1910.

Mr. Adeo acknowledges the above telegram and informs Mr. Rockhill that he may defer discussion of detailed objections for the present, and adds that the department will send further instructions on receipt of a copy of the note of December 10 from the Chinese Government.

The Secretary of State to Chargé Fletcher.

No. 699.]

DEPARTMENT OF STATE,
Washington, February 7, 1910.

SIR: I have to acknowledge the receipt of your dispatch No. 1323, of December 17, 1909, inclosing copy of the reply of the foreign office, dated the 10th idem, to your note of June 23 last, with reference to municipal organizations on the lands of the Chinese Eastern Railway Co.

The department notes with satisfaction the statement in the foreign office reply to the effect that by arrangement with the Russian minister at Peking the American consul at Harbin will be notified in due time concerning the detailed regulations, and that it is hoped that everything will be satisfactorily arranged.

In view of this statement of the Chinese Government, Mr. Rockhill has been instructed by telegraph to defer for the present any discussion of the detailed objections with the Russian foreign office.

I inclose copy of instructions sent to the consul at Harbin directing him to observe quietly the progress of events, but to avoid taking any other official action in regard to the regulations until so instructed by the department or the legation.

I am, etc.,

P. C. KNOX.

The Secretary of State to Ambassador Rockhill.

[Extract.]

No. 42.]

DEPARTMENT OF STATE,
Washington, February 7, 1910.

SIR: I have to inclose for your information a copy of the department's No. 31, to Harbin.

The department hopes that the question of the municipal government of Harbin may be satisfactorily settled by the proposed conference of the Russian and Chinese representatives at Harbin.

I am, etc.,

P. C. KNOX.

[Inclosure.]

The Assistant Secretary of State to Consul Greene.

No. 31.

DEPARTMENT OF STATE,
Washington, February 7, 1910.

SIR: I have to inclose for your information a copy of a dispatch from Henry P. Fletcher, Esq., chargé d'affaires at Peking, to the Department of State, dated December 17, 1909, and of a note from the Chinese foreign office to the American Legation which was inclosed in the former. You will observe that arrangement has been made by China and Russia to send officials of their respective Governments to Harbin to discuss the details of the regulations, which it is proposed to adopt for the establishment of municipal councils in the towns located upon the lands of the Chinese Eastern Railway Co., and that the American consul at Harbin will be notified at the proper time.

The department hopes that the proposed discussion may result in an amicable settlement of the questions at issue which will be satisfactory to all interests concerned.

You are instructed to observe quietly the progress of events and to report promptly and fully any developments affecting the situation. You should avoid taking any other official action in regard to the regulations until so instructed by the department or the legation.

I am, etc.,

HUNTINGTON WILSON.

File No. 4002/281 A

The Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 24, 1910.

Mr. Knox refers to dispatch of December 27, No. 47, from the consulate at Harbin, and says that the department considers that it is no more than equitable that Americans residing at Harbin should pay provisionally through the American consul ordinary municipal rates the same as the Chinese, Russian, and other residents pending the adoption of satisfactory municipal regulations, which, he says, the United States considers as indispensable, and as to which all rights are reserved. Mr. Knox adds that the consul at Harbin should be instructed in this sense and that when occasion offers the Chinese foreign office should be advised that this action has been taken.

File No. 4002/282.

The Secretary of State to Minister Calhoun.

No. 25.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

SIR: Referring to Consul Greene's No. 47 to the department, dated December 27 last, and its inclosures, the department considers that it is only equitable that American residents of Harbin should pay their just proportion of such municipal taxes as may be needed to provide the city with roads, lighting, sanitation, and police. In other places where the obligation of Americans to pay taxes has been questioned, it has been the policy of the department in the past to instruct its representatives to have such taxes paid provisionally or under protest, in order to avoid causing unnecessary inconvenience to local authorities who are charged with the upkeep of the municipalities. Such precedents are found in the arrangement for the payment of municipal taxes under protest in Yokohama, pending the decision of The Hague tribunal, and more recently in the instruction to the consulate general at Seoul, Korea, directing the payment of the house taxes being levied in interior cities and towns in that country; also, quite recently, the department approved of an automobile tax being imposed upon the American residents at Bangkok.

The situation at Harbin has been somewhat complicated by the attempted enforcement of regulations which appear to violate the treaty rights of Americans there, in that they provide for business licenses which are to be granted only after an inspection by the Russian police of the books of the firm concerned, and which contain other obnoxious provisions giving inquisitorial powers to the police. But in view of the recognition by Russia in the preliminary arrangement of May 11, 1909,¹ of China's sovereignty over the leased

¹ See p. 209.

railway territory, and especially the declaration made in the notes exchanged between the Wai-wu Pu and the Russian minister at the time the preliminary arrangement was signed that the leased territory of the Manchurian Railway is Chinese territory wherein Chinese sovereignty is fully recognized, and that the rights and privileges which the subjects of other powers enjoy in the same zone under the treaties between China and the other powers are to be fully preserved, the department instructed you by cable on May 24, 11 a. m., to have the consul at Harbin informed that the department deems it no more than equitable that American residents at Harbin pay provisionally through our consul ordinary municipal rates, the same as Russian, Chinese, and other residents, pending the adoption of satisfactory municipal regulations which this Government regards as indispensable, and as to which all rights are reserved.

This proposal is made as a matter of equity and to relieve the municipality of any embarrassment for want of funds, in so far as relates to our own objections, inasmuch as the proper maintenance of the municipality is manifestly to the best interests of all concerned. It is also to be noted that the Chinese Government has signed the preliminary agreement of May 11, 1909, which in Article XVIII provides that the present regulations are continued in force, pending the preparation of new rules. It would appear, therefore, that the municipal council as now constituted has the authority of the Chinese Government for the collection of the taxes necessary for the present upkeep of the municipality.

The department has good reason to believe that the negotiation of detailed regulations for the Harbin municipality, provided for in Article XVII of the present agreement, will be taken up shortly by Russia and China, and that a satisfactory adjustment will be made of present difficulties. Mr. Rockhill has full instructions on this point and will discuss the matter with the Russian Government at an early date.

You may send a copy of this instruction to the consul at Harbin, through the consul general at Mukden, for their information, and you will take occasion to make clear to the Chinese Government the attitude of the department.

I am, etc.,

P. C. KNOX.

PROPOSAL FOR THE NEUTRALIZATION OF RAILWAYS IN MANCHURIA.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1267.]

AMERICAN LEGATION,
Peking, October 7, 1909.

SIR: In confirmation of my telegrams of October 4 and 5,¹ I have the honor to inclose a copy of the preliminary agreement signed at Mukden on October 2 by the viceroy of Manchuria and the governor of Fengtien and the American group and Pauling & Co. for the financing, construction, and operation of a railway from Chinchow to Aigun. The agreement speaks for itself.

The agreement must receive the sanction of imperial edict before becoming effective.

The agreement was telegraphed by the viceroy to Peking and an imperial edict was immediately issued (Oct. 3) referring it to the Tu-chih Pu, Yu-ch'uan Pu, and the Wai-wu Pu for report. We are now awaiting the result of the deliberations of these boards.

I also inclose copy of the agreement entered into by Mr. Straight for the American group and Lord Jfrench for Pauling & Co., subject to ratification by their principals, which stipulates that the American group shall receive not less than 2½ per cent of the contract price of the railway, and that at least one-half of the materials and equipment purchased in Europe and America shall be American and also that American engineers shall be employed during construction.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Preliminary agreement providing for the financing, construction, and operation of the railway from Chinchow to Aigun.

This preliminary agreement to provide for the financing, construction, and operation of the railway from Chinchow to Aigun is made between their excellencies the viceroy of Manchuria and the governor of Fengtien, hereinafter called the administration, of the one part, and the American group and its associates (such associates to be admitted to participation with the full consent of and to the extent—not more than 40 per cent of the whole—to be determined by the Chinese Government), hereinafter called the banks, and Pauling & Co., hereinafter called the contractors, of the other part:

Now it is hereby mutually agreed by and between the parties hereto as follows:

I. The administration engages to borrow from the bank the sum necessary to construct the railway from Chinchow to Aigun. The rate of interest for this loan shall not exceed 5 per cent per annum, and the terms of issue, which shall be the most favorable obtainable, and the other details of procedure shall be arranged in a mutually satisfactory manner.

The payment of interest and amortization of this loan shall be guaranteed by the Imperial Chinese Government and the security therefor shall be the railway line.

Interest payments and amortization shall be met by the receipts of the railway or the proceeds of the loan, and, if these be insufficient, by Manchurian revenues as may hereafter be selected by the administration and the bank in a manner to be mutually satisfactory.

The first bond issue shall be for the amount necessary for the construction and equipment of the railway between Chinchow and Tsitsihar. The second shall be for the construction and equipment of the railway between Tsitsihar and Aigun.

An equitable arrangement shall be made for the redemption of the bond issue by the board of communications prior to the expiration of their term.

II. The administration agrees to contract with the contractors for the construction and equipment of this road. The contractors engage to build and equip the line, using the best possible materials on the cheapest possible terms.

The detailed terms and conditions, etc., shall be arranged hereafter in a manner that shall be mutually satisfactory.

III. On equal terms Chinese materials shall be given the preference. If, however, Chinese materials are not available, recourse shall be had to other markets.

The administration shall be liable to the contractors only for the contract price of the railway, and it is clearly understood that no commission shall be paid on the purchase of materials.

IV. During the construction of this railway the appointment of the chief engineer shall be vested in Pauling & Co., but this appointment must be approved by the president of the railway company, to be designated by the Imperial Chinese Government. The chief engineer shall be under the control of the board of communications and the railway company.

V. As the work of construction is completed, section by section, the railway shall be operated during the currency of the loan by a company which shall be under the

control of the board of communications. If after the payment of interest and amortization charges and operating expenses there be a surplus the railway company shall receive 10 per cent thereof.

VI. The company shall be composed of Chinese, Americans, and British, as may hereafter be arranged, the Chinese to have a majority interest in the control, but under no circumstances shall persons of any other nationality than those herein mentioned have any voice in the management or control of the company without the full permission of the Imperial Chinese Government.

The company shall have as its president a high official appointed by the Imperial Chinese Government. The other details of organization shall be subsequently arranged in a mutually satisfactory manner.

VII. This railway company is to be organized by Chinese, American, and British interests. It is recognized, however, that this line is constructed in Chinese territory for commercial purposes and in case of war may be used only for the transportation of Chinese troops and munitions of war.

VIII. This preliminary agreement is signed by their excellencies the viceroy of Manchuria and the governor of Fengtien with the bank and the contractors, subject to approval by imperial edict, without which it shall be null and void.

IX. In case certain portions of this agreement are characterized as unacceptable by the imperial edict or in case the administration finds on further consideration that there are certain unsatisfactory provisions therein, these clauses, to which exception has been taken, shall be revised in the detailed agreements in a manner which shall be satisfactory to all parties.

X. This agreement is executed in triplicate in English and Chinese, one set to be retained by their excellencies the viceroy of Manchuria and the governor of Fengtien, one set by the American group, and one set by Pauling & Co. In case there be any misunderstanding arising from a difference between the English and Chinese texts, the matter shall be settled by a mutually satisfactory arrangement.

Signed at Mukden by the contracting parties this 19th day of the eighth moon of the first year of the Emperor Hsuan Tung, being the 2d day of October of the year 1909 of the western calendar.

(Signed)

THE VICEROY OF MANCHURIA AND
THE GOVERNOR OF FENGTIEN.

(Signed)

For J. P. MORGAN & Co.,
KUHN, LOEB & Co.,
THE FIRST NATIONAL BANK,
THE NATIONAL CITY BANK OF NEW YORK,
Constituting the American Group.

WILLARD D. STRAIGHT, *Agent.*

(Signed)

For PAULING & Co.,
FRENCH,
Per W. D. S., *Agent.*

[Inclosure 1.]

Memorandum of agreement between the American group and Pauling & Co.

In addition to the provisions of the preliminary agreement with their excellencies the viceroy of Manchuria and the governor of Fengtien for the financing, construction, and subsequent operation of the railway from Chinchow to Aigun, to which the American group as well as Pauling & Co. are parties,

It is agreed as between the American group and Pauling & Co. that—

I. Since it may be necessary for the American group in making its financial arrangements with the Chinese Government to furnish funds on terms insuring a margin of profit not commensurate with the risks involved, Pauling & Co. will give the American group not less than 2½ per cent of the contract price for both sections of the railway referred to, such percentage to be paid on the completion of the entire road.

II. At least one-half of the materials and equipment purchased in Europe and America shall be American.

III. In view of the fact that upon completion the railway will be operated by a company in which the American group as well as Pauling & Co. will be equally interested (unless otherwise arranged to the satisfaction of both parties), certain American engineers to be recommended by the American group shall be employed by Pauling & Co. during the period of construction.

IV. All other details necessary to secure proper cooperation between the parties to this agreement shall be arranged upon a mutually satisfactory basis.

V. Any revision of the above stipulations, if such be found necessary, shall be made by mutual agreement.

Signed in duplicate at Peking this 6th day of October, 1909.

(For the American group, subject to ratification),
W. STRAIGHT, *Agent*.

(For Pauling & Co., subject to ratification),
FRENCH, *Agent*.

The Secretary of State to Ambassador Reid.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 6, 1909.

In reply to Sir Edward Grey's inquiries reported in his telegram of October 20,² Mr. Reid is instructed to present to the foreign office textually the following memorandum:

Now that there has been signed and ratified by an unpublished imperial decree an agreement by which the American and British interests are to cooperate in the financing and construction of the Chinchow-Tsitsihar-Aigun Railroad, the Government of the United States is prepared cordially to cooperate with His Britannic Majesty's Government in diplomatically supporting and facilitating this enterprise, so important alike to the progress and to the commercial development of China. The Government of the United States would be disposed to favor ultimate participation to a proper extent on the part of other interested powers whose inclusion might be agreeable to China and which are known to support the principle of equality of commercial opportunity and the maintenance of the integrity of the Chinese Empire. However, before the further elaboration of the actual arrangement, the Government of the United States asks His Britannic Majesty's Government to give their consideration to the following alternative and more comprehensive projects: First, perhaps the most effective way to preserve the undisturbed enjoyment by China of all political rights in Manchuria and to promote the development of those Provinces under a practical application of the policy of the open door and equal commercial opportunity would be to bring the Manchurian highways, the railroads, under an economic, scientific, and impartial administration by some plan vesting in China the ownership of the railroads through funds furnished for that purpose by the interested powers willing to participate. Such loan should be for a period ample to make it reasonably certain that it could be met within the time fixed and should be upon such terms as would make it attractive to bankers and investors. The plan should provide that nationals of the participating powers should supervise the railroad system during the term of the loan and the governments concerned should enjoy for such period the usual preferences for their nationals and materials upon an equitable basis *inter se*. The execution of such a plan would naturally require the cooperation of China and of Japan and Russia, the reversionary and the concessionaries, respectively, of the existing Manchurian railroads, as well as that of Great Britain and the United States, whose special interests rest upon the existing contract relative to the Chinchow-Aigun Railroad. The advantages of such a plan to Japan and to Russia are obvious. Both those powers, desiring in good faith to protect the policy of the open door and equal opportunity in Manchuria and wishing to assure to China unimpaired sovereignty, might well be expected to welcome an opportunity to shift the separate duties, responsibilities, and expenses they have undertaken in the protection of their respective commercial and other interests, for impartial assumption by the combined powers, including themselves, in proportion to their interests. The Government of the United States has some reason to hope that such a plan might meet favorable consideration on the part of Russia and has reason to believe that American financial participation would be forthcoming. Second, should this suggestion not be found feasible in its entirety, then the desired end would be approximated, if not attained, by Great Britain and the United States diplomatically supporting the Chinchow-Aigun arrangement and inviting the interested powers friendly to complete commercial neutralization of

¹ Repeated to St. Petersburg, Paris, and Berlin for their information.

² See Foreign Relations, 1904, p. 207, for dispatch covering telegram.

Manchuria to participate in the financing and construction of that line and of such additional lines as future commercial development may demand, and at the same time to supply funds for the purchase by China of such of the existing lines as might be offered for inclusion in this system. The Government of the United States hopes that the principle involved in the foregoing suggestions may commend itself to His Britannic Majesty's Government. That principle finds support in the additional reasons that the consummation of some such plan would avoid the irritations likely to be engendered by the uncontrolled direct negotiations of bankers with the Chinese Government, and also that it would create such a community of substantial interest in China as would facilitate a cooperation calculated to simplify the problems of fiscal and monetary reforms now receiving such earnest attention by the Imperial Chinese Government.

Ambassador Reid to the Secretary of State.

No. 1089.]

AMERICAN EMBASSY,
London, November 26, 1909.

SIR: I have the honor to transmit herewith the full text of a reply received this evening from Sir Edward Grey to my note communicating the memorandum contained in your telegram of November 6, 1 p. m. The substance of it is cabled you simultaneously in my November 26, 6 p. m.¹

I have, etc.,

WHITELAW REID.

[Inclosure.]

The Minister of Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, November 25, 1909.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 9th instant, making certain proposals with a view to preserving the undisturbed enjoyment by China of all political rights in Manchuria and to promoting the development of the Province under a practical application of the policy of the open door and equal commercial opportunity. The first of the proposals made by your excellency is to the effect that the Manchurian highways and the railroad should be brought under an economic and scientific and impartial administration by some plan vesting in China the ownership of the railroads through funds furnished for the purpose by the interested powers willing to participate, and you add that the execution of such a plan would require the cooperation of China and of Japan and Russia, as well as of the United States and Great Britain, whose special interests rest upon the existing contract relative to the Chinchow-Aigun Railroad. Your excellency goes on to say that should the above suggestion not be found feasible in its entirety, the desired end would be approximated, if not attained, by Great Britain and the United States diplomatically supporting the Chinchow-Aigun arrangement and inviting interested powers, friendly to the complete commercial neutrality of Manchuria, to participate in the financing and construction of that line, and of such additional lines as future commercial development may demand, and at the same time to supply funds for the purchase by China of such of the existing lines as might be offered for inclusion in this system. The general principle involved in the first of your excellency's two suggestions entirely commends itself to His Majesty's Government, so far as the preservation of the open-door policy and equal commercial opportunity are concerned, and would in their opinion be well adapted to securing to China full control in Manchuria. I am, however, of opinion, that until the pending negotiations for the Hukuang loan have been completed, it would seem undesirable to consider the question of another international loan for China's railway undertakings, and I would suggest, therefore, that, for the present at any rate, it would be wiser to postpone consideration of the first scheme. As regards the alternative proposal contained in your excellency's note, I observe with satisfaction that the cooperation of interested powers forms part

¹Not printed.

of the scheme, and I have the honor to suggest, for your excellency's consideration, that as a preliminary step toward attaining this desirable end the two Governments should unite in endeavoring to persuade the Chinese Government to admit the Japanese to participation in the Chinchow-Aigun line, as being the parties most interested. The question of supplying funds for the purchase by China of existing lines to be connected with the Chinchow-Aigun line could be considered subsequently.

I have, etc.,

E. GREY.

The Secretary of State to Ambassador O'Brien.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 14, 1909.

Mr. Knox instructs Mr. O'Brien to take an early opportunity of communicating formally to the foreign office the substance of the memorandum to the British foreign office which was embodied in the department's telegram of November 6, taking care to set forth fully the ideas therein contained. Says that the Government of Great Britain has signified its approval of the general principle involved, and directs that he endeavor to secure a like favorable consideration of the project by the Government to which he is accredited.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 14, 1909.

Mr. Knox directs that Mr. Reid take an early opportunity to present to the foreign office the following memorandum:

The Government of the United States is gratified to learn that its proposals relating to the commercial neutralization of the Manchurian railways meet with the approval in principle of the Government of Great Britain. This Government has, up to the present time, been in full accord with the opinion expressed by His Britannic Majesty's Government that it would be inexpedient to broach the subject of another railway loan for China pending the conclusion of the negotiations relating to the Hukuang loan. Apart from the unexpected delay in the consummation of these latter negotiations, however, the following reasons present themselves why an early consideration of this important subject seems desirable. The question of the proposed Chinchow-Aigun loan has been discussed in its various phases by the Japanese press for several weeks past. References to the subject emanating from London, St. Petersburg, and other capitals have also recently appeared in the American press. Moreover, according to information received from Peking, conditions now existing in official circles in China are such that this publicity and uninformed discussion will tend to greatly prejudice, if it does not entirely defeat, the successful culmination of the policy now agreed upon in principle between the Governments of the United States and Great Britain. It appears to the Government of the United States therefore highly important that no time should be lost in placing the plan as a whole before the governments of the other interested powers for their consideration, with a view to obtaining their support of the principle involved. The representatives of the United States at Peking, Tokyo, St. Petersburg, Paris, and Berlin will accordingly be instructed forthwith in the above sense, and this Government is now prepared as a preliminary step to join with the Government of Great Britain in urging China to consent to participation in the Chinchow-Aigun line by Japan and other interested powers. The Government of the United States will welcome the cooperation of the Government of Great Britain in securing favorable consideration of the project by the powers concerned.

¹Repeated to Peking, Paris, Berlin, and St. Petersburg.

The Acting Secretary of State to Ambassador O'Brien.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 15, 1909.

Mr. Wilson informs Mr. O'Brien that he may assure the Japanese Government that the United States is prepared actively to cooperate with Great Britain in securing China's consent to participation by Japan, together with other interested powers, in the Chinchow-Aigun contract already signed, and that it would welcome Japan's support in this as well as in the larger projects proposed.

The Acting Secretary of State to Chargé Fletcher.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 15, 1909.

Mr. Wilson directs Mr. Fletcher to point out to the Chinese Government the immense advantage to it which would result from the proposed plan of commercial neutralization of the railways in Manchuria, and says that while seeking its approval of the project as a whole he will, in cooperation with the British representative at Peking, urge China, as a preliminary step in the larger plan, to consent to participation by Japan and other interested powers in the construction of the Chinchow-Aigun line. Instructs him to press for early publication of edict formally ratifying concession already signed.

Ambassador O'Brien to the Secretary of State.

No. 927.]

AMERICAN EMBASSY,
Tokyo, December 19, 1909.

SIR: I had the honor to inform you this morning by telegram¹ that I yesterday sent to the foreign office a note drawn up in accordance with the department's telegraphic instruction of December 14 and following days, of which I inclose a copy in duplicate. A copy of this note will also be sent to the American legation at Peking for its information.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

*Ambassador O'Brien to Count Komura.*AMERICAN EMBASSY,
Tokyo, December 18, 1909.

MONSIEUR LE MINISTRE: I am authorized to inform your excellency that a preliminary arrangement has been entered into for the financing and construction of the Chinchow-Aigun Railway. While the initial enterprise in question has thus far been carried forward by the United States and Great Britain, I am especially instructed to assure your excellency that the United States Government is prepared actively to cooperate with Great Britain in securing China's consent to the participation to a proper extent by Japan and other interested powers which are known

¹ Not printed.

to support the policy of equal commercial opportunity and the integrity of the Chinese Empire. I take pleasure in adding that my Government will welcome such participation on the part of the Imperial Government of Japan. In addition to the undertaking above outlined, my Government has had under consideration a plan broader and more extensive. It has been thought that the most effective way to preserve the undisturbed enjoyment by China of all political rights in Manchuria, and to permit the development of those Provinces under the practical application of the open door and equal opportunity, would be to combine all Manchurian railways under an economic, scientific, and impartial administration by a suitable arrangement which would vest in China the legal title to such railroads, the funds thus made necessary to be furnished under some plan by which proper allotment would be made to those powers which should be found willing to participate. The maturity of such a loan should be such a distance in the future as to afford a reasonable certainty that it could be met, and the terms should be such as to make it attractive to investors. I have no doubt that those principally concerned should retain the right to supervise the construction and operation of the railway lines until the loan should be repaid, and during the same period the governments interested should be accorded the usual preferences for their nationals in the supplying of materials, such preferences to be adjusted upon a basis which would be equitable as between those concerned. The reversionary interest and the interests of the concessionnaires in existing Manchurian railroads being at present vested in China, Japan, and Russia, the carrying out of the plan in question would require their cooperation, while it would also require the affirmative cooperation of Great Britain and the United States, whose special interests rest upon the existing contract covering the construction of the Chinchow-Aigun Railroad. My Government is able to find in the proposed plan great advantages both to Japan and to Russia. These powers both desiring in good faith to protect the policy of the open door and of equal opportunity in Manchuria, and wishing to assure to China unimpaired sovereignty of her territory, might well be expected to welcome an opportunity to be freed from the duties, responsibilities, and expenses undertaken by them in the protection of their commercial and other interests, and be able to enjoy the impartial assumption by the combined powers, including themselves, of the onerous and exacting burdens resting upon them. My Government indulges the hope that such a plan might meet favorable consideration on the part of Russia, and also rests in the belief that American financial participation might be expected. If the foregoing suggestion should not be found feasible in its entirety as outlined, a less comprehensive plan might be reached under which Great Britain and the United States, having in hand the Chinchow-Aigun arrangement, might invite the interested powers friendly to the commercial neutralization of Manchuria to participate not only in the financing and construction of that line but of such additional lines as future commercial development might demand, and at the same time to supply funds for the purchase by China of such of the existing lines as might be offered for inclusion in this system. The latter suggestion, while differing to a degree from the one first outlined, would perhaps approximate if not entirely attain the desired end now preferred. The principles in either case find support in the additional reasons that the consummation of some such undertaking would avoid the irritations likely to be met through the uncontrolled direct negotiations of bankers with the Chinese Government, and also that it would create such community of substantial interests in China as would facilitate a cooperation which would simplify the problems of external and monetary reforms now receiving such earnest attention at the hands of the Imperial Chinese Government. It is the sincere desire on the part of the United States that the principle involved may commend itself to the Imperial Government of Japan. I am informed that the Imperial Japanese Government at one time had under consideration the idea of giving an international character to the South Manchurian Railway, and while the idea was not at any time carried into force, nevertheless the more comprehensive movement now suggested may find favor, and I sincerely hope it may.

I avail myself, etc.,

T. J. O'BRIEN.

Chargé Schuyler to the Secretary of State.

No. 600.]

AMERICAN EMBASSY,

St. Petersburg, December 20, 1909.

SIR: Referring to your telegrams of November 6 and December 14, concerning the project for the complete neutralization of the

railways of Manchuria, I have the honor to inform you that in compliance with the instructions in the latter telegram I handed to the minister for foreign affairs, Mr. Iswolsky, a formal note, with accompanying aide-mémoire, embodying the views of the Department of State as set forth in the telegram of November 6, regarding the neutralization project. Copies of the note and aide-mémoire are inclosed herewith for your information. Mr. Iswolsky read over the aide-mémoire very carefully in my presence and then remarked that he was a little disappointed that the whole matter had not been worked out in detail, but that he would give the project his careful consideration.

I have, etc.,

MONTGOMERY SCHUYLER.

[Inclosure.]

Chargé Schuyler to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
St. Petersburg, December, 1909.

YOUR EXCELLENCY: With reference to the informal conversation which Mr. Rockhill had with your excellency on October 31-November 13, in the course of which he presented certain suggestions concerning the railways of Manchuria, I now have the honor to inform your excellency that these suggestions have been the subject of correspondence between this embassy and the Department of State, as the result of which I am instructed to present for the consideration of the Imperial Government an aide-mémoire embodying the views of the Government of the United States in this matter.

I take this occasion, etc.,

MONTGOMERY SCHUYLER.

[Subinclosure.]

AIDE-MÉMOIRE.

All the powers having interests in the three Manchurian Provinces of China having repeatedly, during the last 10 years, given categorical assurances of their determination to support the maintenance of the sovereignty and integrity of the Chinese Empire and the principle of equality of commercial opportunity, it seems to the United States Government that nothing would now place this policy on so firm and lasting a basis in Manchuria as its application to the railroads existing at present or to be built in the future by completely neutralizing them to the purposes of commerce and industry. Such a consummation could, it would seem, best be attained by the adoption of some plan which would vest in China the ownership of all the railroads built or hereafter to be built in Manchuria, and by placing them under the guaranty and supervision of the powers participating in the undertaking. The carrying out of such a scheme would require that a loan should be made to China for the purchase of existing lines and the construction of new ones. The period of currency of the loan should be ample to make it reasonably certain that it could be met within the time fixed, and should be upon such terms as would make it attractive to bankers and investors. The powers participating should have, during the time of the loan, supervisory power over the railroad system and their nationals should enjoy on an equitable pro rata basis agreed upon among the powers, and during the same period, the usual preferential rights for themselves and their railroad manufactures. One of the obvious advantages of the plan suggested would be that those among the powers that have separately undertaken duties, responsibilities, and expenses for the building and maintenance in Manchuria of railways and for the protection therein of their commercial and other interests would be able to shift a large part of them onto the other powers participating in the scheme, who would, in conjunction with themselves, share them in proportion to their respective interest in the neutralized system. It is believed that by the adoption of some such neutralized system of railways in Manchuria, under an economic, scientific, and impartial administration, foreign as well as Chinese trade and industry would be greatly promoted, and furthermore

that it would create such a community of interests among the powers as would facilitate cooperation in and successful solution of the problems of fiscal and monetary reforms now engaging the attention of the Imperial Chinese Government and of the treaty powers.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, December 23, 1909.

Mr. Fletcher reports that at a formal conference this afternoon at the foreign office he was assured by Na-t'ung and Liang Tun-yen that the general principle of the project referred to in department's telegram of December 14 is approved by the Chinese Government, and that he was also informed that further consideration of the Chinchow project is necessary.

Ambassador Hill to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, December 24, 1909.

Mr. Hill reports that the German foreign office telephones that it fully agrees to the general principles laid down in Mr. Hitt's memorandum embodying telegram of November 6, and will reply in writing after Christmas.

The Secretary of State to Ambassador Rockhill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 27, 1909.

Mr. Rockhill is advised that it was the intention of the department that he communicate to the Russian foreign office a paraphrase of the full text of the memorandum contained in the telegram of November 6, omitting, as a matter of propriety, only the reference to the secret edict in the opening paragraph.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1329.]

AMERICAN LEGATION,
Peking, December 28, 1909.

SIR: I have the honor to report that in pursuance of the department's telegraphic instructions I formally presented to Mr. Liang Tun-yen at the Wai-wu Pu on Tuesday last, the 21st instant, the inclosed memorandum on the subject of an international loan to China for the repurchase of the existing and the construction of future Manchurian railways.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

MEMORANDUM.

On the 2d of October their excellencies the viceroy of Manchuria and the governor of Fengtien signed, with the representatives of the American banking group and Pauling & Co., an English firm, an agreement providing for the financing, construction, and operation of a railway from Chinchow to Aigun. The Government of the United States is prepared to support and facilitate this enterprise, which it believes would greatly contribute to the progress and the commercial development of China.

There are already in operation in Manchuria three separate and distinct railway systems, under Russian, Japanese, and Chinese direction. The cooperation between these three systems is not so close, nor are the economic benefits derived from their operation so great, as would be the case if all were under the same administration. Political questions have also arisen in connection with the contracts under which certain of these railways are operated. It seems, therefore, to the Government of the United States that perhaps the most effective way to preserve the undisturbed enjoyment by the Chinese Government of all political rights in Manchuria and to promote the development of those Provinces under a practical application of the policy of the "open door" and equal commercial opportunity would be to bring the existing and contemplated Manchurian railways under an economic, scientific, and impartial administration by some plan vesting in China the ownership of the railways through funds furnished for that purpose by the interested powers willing to participate.

The loan necessary for this purpose should be for a period ample to make it reasonably certain that it could be met within the time fixed and should be upon such terms as would make it attractive to bankers and investors. It would also be provided that nationals of the participating powers should supervise the railroad systems during the term of the loan, and the governments concerned should enjoy for such period the usual preferences for their nationals and materials upon an equitable basis among themselves.

The execution of this plan would, of course, require the cooperation of China and of Japan and Russia, the reversionary and concessionaries, respectively, of the existing Manchurian railways, as well as that of Great Britain and the United States, whose special interests are in connection with the contemplated Chinchow-Aigun Railway.

It is scarcely necessary to point out to the Imperial Chinese Government the immense advantage to China which would result from the plan above proposed. The ownership of all lines in Manchuria would become vested in China and with such investiture all political questions which have arisen in connection with lines now in operation or in course of construction would be definitely settled. The Manchurian railways being thus welded into one system would become a vastly more efficient agency in the commercial, industrial, and agricultural development of those Provinces.

The Government of the United States would learn with pleasure that this project meets with the favorable consideration of the Imperial Chinese Government.

Ambassador Reid to the Secretary of State.

No. 1122.]

AMERICAN EMBASSY,
London, December 30, 1909.

SIR: With reference to the department's cable of the 14th instant containing a memorandum to be presented to the foreign office in regard to the commercial neutralization of the Manchurian railways, I have the honor to inclose herewith a note from the foreign office, dated the 29th instant, in reply to the memorandum. The substance of this note was cabled to the department yesterday in my No. 534.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister of Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, December 29, 1909.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 17th instant, stating that in the opinion of the United States Government no time should be lost in placing their proposals relating to the commercial neutralization of the Manchurian railways before the governments of the other interested powers with a view to obtaining their support to the principle involved. Your excellency goes on to say that the United States representatives at Peking, Tokyo, St. Petersburg, Paris, and Berlin would be instructed forthwith in this sense, and that the United States Government are now prepared, as a preliminary step, to join with His Majesty's Government in urging China to consent to participation in the Chinchow-Aigun Railway by Japan and the other powers interested. I have the honor to inform your excellency in reply that His Majesty's Government would be glad to learn what views the governments of the other powers concerned, and more especially Russia and Japan, take in regard to the above proposals. Instructions have been given to His Majesty's minister at Peking authorizing him to join with his United States colleague in endeavoring to persuade the Chinese Government to agree to Japanese participation in the Chinchow-Aigun Railway, and I have the honor to add for your excellency's information that I have already approached the Japanese ambassador in London with a view to ascertaining what measure of participation would satisfy the Japanese Government in regard to this undertaking.

I have, etc. (for the Secretary of State),

W. LANGLEY.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1332.]

AMERICAN LEGATION,
Peking, December 31, 1909.

SIR: In continuation of my No. 1329, of the 28th instant, on the subject of the neutralization of the Manchurian railways, I have the honor to report that the British minister, Sir John Jordan, called on me yesterday and stated that he had received instructions advising him of his Government's acceptance of the general principle involved in the United States Government's suggestion for the neutralization of the railways in Manchuria and directing him to cooperate with me in support of the Chinchow-Aigun project, and with me to urge China to admit Japanese participation therein.

I have to-day addressed the inclosed note to Prince Ching, in which I quote at length my memorandum of the 21st instant, setting forth the broader alternative to which China has already agreed in principle, and invite China's favorable consideration of the lesser project based on the Chinchow Railway.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

*Chargé Fletcher to the Prince of Ching.*AMERICAN LEGATION,
Peking, December 31, 1909.

YOUR IMPERIAL HIGHNESS: I had the honor to present to your highness's board on the 21st instant a memorandum in the following terms: ¹

¹ See p. 241 for text.

On the 24th instant I was informed by their excellencies Na-t'ung and Liang Tun-yen, presidents of the board of foreign affairs, that the project above outlined met with a favorable consideration of Your Highness's Government. This suggestion, which has for its object the commercial neutralization of the three eastern provinces, has also been made to the various Governments likely to interest themselves in the project, and their reply will be in due course communicated to the Imperial Chinese Government.

The Government of the United States regards the Chinchow-Aigun Railway, the preliminary agreement for the financing, construction, and operation of which was signed last October, as an important factor in the proposed plan; for should it transpire that the larger and more comprehensive project for the repurchase by China of all the Manchurian railways be found not possible in its entirety at this time, the desired aim may approximately be obtained by the construction of the Chinchow-Aigun line by China under said arrangements and by inviting, as provided therein, the powers friendly to complete commercial neutralization in Manchuria to participate in the financing and construction of not only the Chinchow-Aigun line, but also of such additional lines as the future commercial development may demand, and that at the same time to supply funds for the purchase by China of such of the existing lines of railway as might be offered for sale to China, and which would be included in the Manchurian system.

The Government of the United States would therefore be pleased to learn that its suggestion with regard to the Chinchow-Aigun Railway also meets with the approval of Your Highness's Government, and that the proper arrangements may be undertaken to make the same effective.

I avail myself, etc.,

HENRY P. FLETCHER.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, January 2, 1910.

Mr. Fletcher states that in reply to an inquiry of the American embassy at Tokio he telegraphed as follows:

The president of the foreign office has informed me that the Chinchow-Aigun agreement has not yet been ratified by the Chinese Government, but is still under consideration.

Statement given to the press.

DEPARTMENT OF STATE,
Washington, January 6, 1910.

In reply to an inquiry as to the truth of the St. Petersburg report relating to the neutralization of railways in Manchuria, the Secretary of State to-day said:

The proposition of the United States to the interested powers looking to the neutralization of the Manchurian railroads discloses the end toward which American policy in the Far East has been recently directed.

Late in May last this Government learned that an understanding had been reached between important British, French, and German financial groups, supported by their Governments, by which they were to furnish funds for the construction of two great railways in China. This Government, believing that sympathetic cooperation between the Governments most vitally interested would best subserve the policies of maintenance of Chinese political integrity and equality of commercial opportunity, suggested that American cooperation with the powerful international financial group already formed would be useful to further the policies to which all were alike pledged.

This Government pointed out that the greatest danger at present in China to the open door and the development of foreign trade arose from disagreements among the great western nations, and expressed the opinion that nothing would afford so impressive an object lesson to China and the world as the sight of the four great capitalist nations—Great Britain, Germany, France, and the United States—standing together for equality of commercial opportunity.

Owing to the strong opposition that had developed in certain official quarters in China and elsewhere, the President, in July last, felt warranted in resorting to the somewhat unusual method of communicating directly with His Imperial Highness Prince Chun, regent of the Chinese Empire, informing the latter that he was greatly disturbed at the reports of certain prejudiced opposition to the Chinese Government's arranging for equal participation by American capital in the Hukuang loan. The President pointed out that the wishes of the United States were based upon broad national and impersonal principles of equity and good policy, in which a due regard for the best interests of China had a prominent part. He reasserted his intense personal interest in making the use of American capital in the development of China an instrument in the promotion of China's welfare and an increase in her material prosperity without entanglements or embarrassments that might affect the growth of her independent political power and the preservation of her territorial integrity.

As a result of this communication, an agreement was soon reached with the Chinese Government that American bankers should take one-fourth of the total loan and that Americans and American materials should have all the same rights, privileges, preferences, and discretions for all present and prospective lines that were reserved to the British, German, and French nationals and materials under the terms of their original agreement, except only the right to appoint chief engineers for the two sections about to be placed under contract. As to the latter point, China gave assurance that American engineers would be employed upon the engineering corps of both roads and that the present waiving of America's right to chief engineers would in no way prejudice its rights in that regard when future extensions should be constructed. After several months of continuous negotiation, the right to such American all-around equal participation has been acknowledged and a final settlement on this basis has been all but completed.

The grounds for this energetic action on the part of the United States Government have not been generally understood. Railroad loans floated by China have in the past generally been given an imperial guaranty and secured by first mortgages on the lines constructed or by pledging provincial revenues as security. The proposed hypothecation of China's internal revenues for a loan was therefore regarded as involving important political considerations. The fact that the loan was to carry an imperial guaranty and be secured on the internal revenues made it of the greatest importance that the United States should participate therein in order that this Government might be in a position as an interested party to exercise an influence equal to that of any of the other three powers in any question arising through the pledging of China's national resources, and to enable the United States, moreover, at the proper time again to support China in urgent and desirable fiscal administrative reforms, such as the abolition of likin, the revision of the customs tariff, and general fiscal and monetary rehabilitation.

There were, however, stronger reasons and broader grounds. In fact, the action of the Government in respect to the pending loan was but the first step in a new phase of the traditional policy of the United States in China and with special reference to Manchuria. As is well known, the essential principles of the Hay policy of the open door are the preservation of the territorial and jurisdictional integrity of the Chinese Empire and equal commercial opportunity in China for all nations. This Government believes that one of the most effective, if not the most effective, way to secure for China the undisturbed enjoyment of all political rights in Manchuria and to promote the normal development of the eastern provinces under the policy of the open door practically applied would be to take the railroads of Manchuria out of eastern politics and place them under an economic and impartial administration by vesting in China the ownership of its railroads; the funds for that purpose to be furnished by the nationals of such interested powers as might be willing to participate and who are pledged to the policy of the open door and equal opportunity, the powers participating to operate the railway system during the period of the loan and enjoy the usual preferences in supplying materials.

Such a policy would naturally require for its execution the cooperation not only of China, but also of Japan and of Russia, who already have extensive railway rights in Manchuria. The advantages of such a plan are obvious. It would insure unimpaired Chinese sovereignty, the commercial and industrial development of the Manchurian provinces, and furnish a substantial reason for the early solution of the problems of fiscal and monetary reform which are now receiving such earnest attention by the Chinese Government. It would afford an opportunity for both Russia and Japan to shift their onerous duties, responsibilities, and expenses in connection with these railways to the shoulders of the combined powers, including themselves. Such a policy, moreover, would effect a complete commercial neutralization of Manchuria, and in so doing

make a large contribution to the peace of the world by converting the provinces of Manchuria into an immense commercial neutral zone.

The recent signature of an ad referendum agreement between a representative of the Chinese Government and the financial representatives of the United States and Great Britain to finance and construct a railway line from Chinchow to Aigun gave the United States an opportunity to lay this proposal before the Government of Great Britain for its consideration, and it is gratifying to be able to state that the project has already received the approval in principle of that Government. There are reasons to believe that such a plan might also meet with like favorable consideration on the part of Russia. Germany and China cordially approve the American suggestion, and certain press reports from Japan indicate that the project may likewise be received with favor by that country. For instance, a recent article on the subject in the Japan Mail ends with these significant words:

"One can not conceal from oneself the fact that if all the railways forming part of the system which connects the west with the Far East were converted into a neutral estate a great contribution will be made to the peace of the world."

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, January 7, 1910.

Mr. Fletcher reports that the British minister and he to-day urged the President of the foreign office to ratify the Chinchow agreement and to admit of the participation of Japan and other interested powers, and that the President replied that the general principles of the Chinchow project were approved by the Chinese Government, but that China is inclined to await the result of the changes now taking place before proceeding any further with the Chinchow project

The Secretary of State to Chargé Fletcher.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 7, 1910.

Mr. Knox instructs Mr. Fletcher to point out to the Chinese Government that the success of the proposal for the neutralization of the railways of Manchuria, which means so much to China, depends in a large measure upon an early public ratification of the Chinchow project as signed, and directs him to continue to urge for such early ratification.

Ambassador O'Brien to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Tokyo, January 8, 1910.

Mr. O'Brien states that he has learned indirectly from the prime minister that Japan will decline suggestion of December 18. He adds that a formal reply is being considered, but is not yet ready.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, January 20, 1910.

Mr. Fletcher reports that he is informed that an edict was issued to-day ratifying the Chinchow agreement, but reserving unacceptable provisions. Mr. Fletcher adds that the text of the memorial is not yet available.

The Secretary of State to Ambassador O'Brien.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 20, 1910.

Mr. Knox informs Mr. O'Brien that the department desires the plan for the neutralization of the railways in Manchuria, proposed in its telegram of November 6, to be considered entirely upon its merits and would greatly regret to have the decision of the Japanese Government, when ultimately reached, influenced by any misunderstanding as to the nature of the proposal or the motive in making it, and that the department does not believe that the uninformed expressions of a portion of the Japanese press that were recently being reproduced in the American papers in any way reflect the attitude of the Japanese Government, which has so often and so clearly been defined in formal engagements.

Mr. Knox outlines the reasons for the proposal as follows, saying that this Government was asked by some American bankers diplomatically to support their contract for a railway from Chinchow to Aigun to be built by a British firm of contractors with British and American capital; and that the Department of State indicated a disposition to give favorable consideration to such a project provided Great Britain would give similar support, and provided also the other interested powers pledged to the policy of equal opportunity should be invited to participate.

Mr. Knox says that since it appeared that Russian and Japanese railway properties in Manchuria would be somewhat affected by the construction of the projected railway, this Government decided, before going further, to inquire as to the feasibility of avoiding a conflict of interests by combining the existing Manchurian railroads into one system, the funds for that purpose to be raised by the interested powers; that it was suggested if such a plan was thought not to be feasible as to all the existing roads, then it might be applied to part, or that future roads might be built through the cooperation of the powers concerned; and that the suggestion that China itself should now repurchase the existing roads in the event of that suggestion being acceptable to those in present possession as concessionaires was made because China is entitled to acquire those roads at the end of the term of the concessions under which they were built.

Mr. Knox says that Great Britain having signified its approval of the general principle involved in the larger plan, as well as of the Chinchow-Aigun project, the alternative proposals were simultaneously laid before the other governments most directly interested; that this Government does not anticipate that any of the powers associated

with it in maintaining the policy of equal opportunity in China will fail correctly to interpret and appreciate either of these suggestions, and that so long as this Government has the unretracted solemn assurances of its associates in that policy that the policy is receiving their cordial and loyal support, it will naturally regard it the duty to bring to the attention of its associates any fair proposition directly bearing upon the immediate purposes of that policy and likely, in its judgment, to affect it favorably.

Mr. Knox points out that this Government gives full credence to the assurances of other governments and regulates its actions accordingly, and that the American policy of desiring cooperation in the construction of Chinese railways rests upon the recognition of the direct relation between the obligation of the pledge of the powers to sustain Chinese sovereignty and maintain equal opportunity and the privilege of participation in Chinese development and commerce.

He says that it is hardly to be supposed, and is not supposed by this Government, in view of its historic relations to the accepted policies in respect to China, that there should be expected on its part any hesitations in making suggestions for their more effective advancement presented in good faith and resting exclusively for their consideration on such merit as they may disclose.

Mr. Knox says the South Manchurian Railway was acquired from Russia as one of the results of the Treaty of Portsmouth, and that in this treaty, article 7, Japan and Russia agreed to exploit their respective railways in Manchuria exclusively for commercial and industrial purposes, and in nowise for strategic purposes. Mr. Knox refers to the exchange of notes of November 30, 1908, between Baron Takahira and Mr. Root, in which Japan and the United States declare:

They are also determined to preserve the common interest of all powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire.

He says that the suggestion of the United States, therefore, relates to the highways of commerce now in the possession of Russia and Japan as concessionaires, and that they themselves have declared these to be devoted exclusively to commercial purposes, and that the transfer of that portion of the railroad acquired by Japan under the treaty from Russia was assented to by China on this understanding. He says the proposition of the United States would seem to be a proper and effective means for the advancement of the common commercial interests of the powers in China if it has the merit its originators believe. He points out that the suggestion is predicated entirely upon the theory that a more economic, practical, and successful operation of the Manchurian railways, which have a direct relation to the commercial and industrial development of Manchuria, might be accomplished by such a combination as suggested, in which all the interested powers would participate, than under the arrangement that now exists.

Mr. Knox adds that so far from being an unfriendly proposal, this Government sincerely believes that Japan would not only retain all the present and prospective commercial and industrial advantages in Manchuria that it now has, including a proportional investment quite commensurate with its present railroad holdings, but would also receive other substantial benefits for an assured condition of peace if the plan were adopted in its entirety by all the powers concerned.

Mr. Knox informs Mr. O'Brien that while the above is intended primarily for his own information, he may in his conversations with members of the foreign office make such use of the ideas set forth as he may deem necessary to secure the fullest understanding and consideration of the subject.

The Secretary of State to Ambassador Rockhill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 20, 1910.

Mr. Knox informs Mr. Rockhill that the department desires its plan for the neutralization of the railways in Manchuria, proposed in its telegram of November 6 to be considered entirely upon its merits and would greatly regret to have the decision of the Imperial Russian Government, when ultimately reached, influenced by any misunderstanding as to the nature of the proposal or the motive in making it, and says that he may inform the minister for foreign affairs that in view of the importance of the subject this Government would appreciate an opportunity of presenting through him, within the next few days, a fuller explanation of certain matters directly bearing upon the question.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, January 21, 1910.

Referring to his telegram of January 20, Mr. Fletcher reports that he is now in receipt of a formal note from foreign office stating that the viceroy of Manchuria and others have memorialized to make a foreign loan to build a railway from Chinchow to Aigun, and that the foreign office consulted with the boards of finance and communications and it was agreed to sanction the proposal.

Mr. Fletcher says that a memorial stating specifically that such an agreement would be drawn up in careful detail was submitted on the 20th instant to the Throne and the imperial rescript "Let it be done" was received.

He adds that the note concludes by informing him that the viceroy has been instructed to act accordingly.

Ambassador Rockhill to the Secretary of State.

[Extract.]

No. 12.]

AMERICAN EMBASSY,
St. Petersburg, January 22, 1910.

SIR: I have the honor to inclose herewith the aide-mémoire from the ministry for foreign affairs in reply to the memorandum submitted to it by this embassy, embodying the proposals contained in your cabled instructions of November 6 last for the neutralization of the railway lines in Manchuria.

This aide-mémoire was received by the embassy yesterday afternoon. This morning's newspapers contained the official communique giving the substance of the aide-mémoire. The comments of the press are distinctly divided along purely political lines, the Government and conservative organs being opposed to the general proposal, the liberal press in favor of it; while both are disposed to favor a fuller consideration of the question of Russian participation in the Chinchow-Aigun Railway.

I have, etc.,

W. W. ROCKHILL.

[Inclosure.]

AIDE-MÉMOIRE.

The Imperial Government did not fail to submit to the most serious examination the alternative proposed by the Government of the United States of America, tending on the one hand to establish an international administration and control of the railroads in Manchuria and on the other hand to engage Russian capital in the enterprise of the Chinchow-Tsitsihar-Aigun Railroad. The Federal Government sees in this proposition the best means of maintaining in their entirety the political rights of China in Manchuria and of contributing to the development of this Province by applying to it the principle of the open door.

It is with a feeling of deep satisfaction that the Imperial Government notes the just testimony borne by the United States Government to the sincere desire with which Russia is animated to support in Manchuria the policy of the open door and of equal opportunity, as well as to guarantee to China her full sovereignty there.

However, nothing appears at the present time to threaten either this sovereignty or the open-door policy in Manchuria. Consequently, the Imperial Government can not discover in the present condition of Manchuria any reason necessitating the placing on the order of the day of the questions raised by the United States Government.

At the same time the Imperial Government believes that it must declare with absolute frankness that the establishment of an international administration and control of the Manchurian railroads as proposed by the Federal Government would seriously injure Russian interests, both public and private, to which the Imperial Government attaches a capital importance. This proposition can not, therefore, meet with a favorable reception on its part.

In making this statement the Imperial Government is pleased to hope that, appreciating at their just value the immense material sacrifices and moral efforts at the expense of which these interests were created, the Federal Government will look at this question from the same standpoint as the Imperial Government, which standpoint is equitable in every respect. The Imperial Government, believing that the interests involved in the Chinese Eastern Railway are notorious, believes that it may confine itself to stating their substance succinctly.

It is important above all to remark that at the time this immense enterprise was put into execution under extraordinary conditions, the Chinese Eastern Railway Co. insured itself, for the whole duration of the concession—that is, for 80 years—both on the part of the Chinese and of the Russian Government, well-defined rights and privileges which it did not consent to relinquish unless China redeemed the whole enterprise, but in no event before the expiration of a period of 36 years. The company therefore adopted its plan of operation with the conviction of being able to realize this long period of time guaranteed to it by the very act of concession. Now 30 years still separate it from the expiration of the shortest of these periods.

It is evident that, under these conditions, to urge it to relinquish its rights and privileges would be to inflict on these interests an injury which nothing could warrant. For this the Imperial Government sees no sufficient reason.

On the other hand, the fact must not be lost sight of that, being obliged to operate in a country where European civilization does not exist, the company was compelled to make great expenditures not only for the construction of the railroad proper, but also in connection with numerous auxiliary works. It was also necessary to create and organize various kinds of administrations and services connected in one way or another with the railroad. Finally, thanks to the public confidence which was enjoyed by the company, numerous private enterprises, more or less connected with the railroad, arose along the Chinese Eastern line, very considerable capital being invested in them. It is hardly possible to enumerate the numerous interests grouped

about this line to-day. And this is a sufficient reason why the Imperial Government deems itself obliged to use the greatest circumspection in making any modification whatever of the state of affairs which is the source of so many interests.

There is still another final consideration which still more greatly obliges the Imperial Government to observe great prudence. The development of Manchuria and the exploitation of its natural resources are not the only purposes pursued by the Chinese Eastern Railroad. The latter is of a public interest of the first order to Russia. It constitutes the principal line of communication between the Russian possessions in the Far East and the rest of the Empire; it is also the great artery by which these possessions are supplied with Russian merchandise. In this way the line is but an integral part of the great Trans-Siberian Railway, which is used by almost all of western Europe in its relations with the Far East. It is this consideration that decided the Russian Government to guarantee, at very considerable expense, the capital invested in the construction of the Chinese Eastern Railway, and to cover the deficit resulting from its operation. It can not, therefore, be a matter of indifference to the Imperial Government whether it is an international organ that administers a line of such importance, or, on the contrary, a Russian stock company which is obliged not to fix the rates and conditions of transportation of merchandise by the Chinese Eastern Railroad without the consent of the Russian Government, and which, by the very nature of the concession obtained, is closely connected with the interests of the nation.

These are the considerations which, from the Russian standpoint, determine in a conclusive manner the attitude of the Imperial Government toward the proposition of the United States Government regarding the international administration and control of the Manchurian railroads. There are others, however, of a general character which likewise do not plead in favor of this proposition.

The Imperial Government is of the opinion that the proposition of the United States does not sufficiently guarantee that the new order of things will have a satisfactory result from a financial standpoint. At all events, the organization proposed for Manchuria is of a tentative character, which has not only never been tried in China but is unusual in itself. To decide in favor of it on so vast a scale as proposed by the Federal Government, relinquishing for this purpose a system that has been tested, would only be possible with a certainty of obtaining favorable results. The Imperial Government regrets that it does not have this certainty.

Taking up, now, the second alternative of the American proposition, the Imperial Government considers itself obliged to declare that it regards the project of construction of the Chinchow-Tsitsihar-Aigun Railroad as being of capital importance to Russia. Its accomplishment will open up a new route giving access from the south not only to the Chinese Eastern Railroad, but directly to Russian possessions at Aigun. This shows adequately the strategic and political importance of the enterprise. Moreover, the construction of this line will essentially modify the conditions under which eastern Mongolia and the north of Manchuria are served by the Chinese Eastern Railroad. Now, the Imperial Government can not realize the consequences of this proposition and decide on the attitude which it ought to assume in regard thereto unless it is informed of the basis on which it reposes. For these reasons the Imperial Government, while being willing in principle to take this question under consideration, hopes that it will be enabled to know the basis of the proposition in due time in order that it may, after a thorough examination, reach a final attitude with regard to the proposition itself as well as to its participation therein.

It is the same with any future project concerning a financial participation in the construction of railroads in Manchuria. The Imperial Government considers that it must reserve the privilege of examining every project of this kind from a double standpoint of its political and strategical interests and of the interests of the Chinese Eastern Railroad. Then only could it take a position in regard to each of the lines which might be projected.

Ambassador O'Brien to the Secretary of State.

[Extract.]

No. 978.]

AMERICAN EMBASSY,
Tokyo, January 24, 1910.

SIR: I have the honor to inclose herewith a copy of the note from Count Komura to me, dated the 22d instant, in relation to the proposal to neutralize certain railways in Manchuria, etc.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador O'Brien.*DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, January 21, 1910.

MONSIEUR L'AMBASSADOR: The note which your excellency did me the honor of addressing to me under the date of the 18th ultimo, in reference to the internationalization and administration of the railways of Manchuria, was duly received and has had, it is scarcely necessary to add, the most serious attention of the Government of His Majesty the Emperor.

The Imperial Government are well aware that the proposal of the United States is entirely disinterested, and that it has for its single inspiration a desire to promote what your excellency's Government conceives to be the best interests of China, and I beg you to accept my assurances that the Imperial Government, upholding in all sincerity as they do the integrity of the Chinese Empire and the principle of equal opportunity in all parts of China, would unhesitatingly lend their undivided support to the project if they could bring themselves to the conclusion that its realization would accomplish the result desired.

The relations of friendship and good understanding which so long existed between our two countries and the common desire of both that nothing may be permitted to weaken the sentiment of mutual good will and confidence afford, I am happy to believe, ample assurance that a frank exposition of the reasons which prevent my Government from giving their support to the scheme will not be misunderstood or misconstrued.

The most serious objection to the proposal in question lies in the fact that it contemplates a very important departure from the terms of the treaty of Portsmouth. That treaty was designed to establish in Manchuria a permanent order of things, and the Imperial Government firmly believed that in a strict and loyal adhesion to its provisions are to be found the highest guaranties of enduring peace and repose in this part of the world and of the orderly advancement of Manchuria. Not the least difficult of the many difficult and important problems that were definitely solved at Portsmouth was the question of railways. That adjustment subsequently received the deliberate confirmation of the Chinese Government in the treaty of Peking, and the railway operations now carried on in southern Manchuria are consistent with the original concessions which were with equal deliberation granted by the same power.

Nor can the Imperial Government see in the present condition of things in Manchuria anything so exceptional as to make it necessary or desirable to set up there an exceptional system not required in other parts of China. There is nothing in the actual situation in that region, so far as the Imperial Government are aware, which exceptionally interferes with the undisturbed enjoyment by China of her political rights. So far as the question of the open door is concerned the principle of equal opportunity possesses in its application to Manchuria a more comprehensive signification than it has elsewhere in China, since in virtue of Article VII of the treaty of Portsmouth the Japanese and Russian railways in those Provinces are dedicated exclusively to commercial and industrial uses. Finally, in the matter of railway administration, it is impossible for the Imperial Government to believe that the substitution of an international in place of a national régime would prove advantageous or beneficial. On the contrary, it seems to them that in the presence of such a system economy and efficiency would, in the nature of things, be obliged to yield to political exigencies and that the divided responsibility of the system would inevitably mean an absence of due responsibility, to the serious disadvantage of the public and the detriment of the service.

These are the principal reasons why the project under examination does not commend itself to the favorable consideration of the Imperial Government. But there are other cogent reasons which can not be ignored.

In the regions affected by the Japanese railways in Manchuria there have grown numerous Japanese industrial and commercial undertakings which owed their inception, as they owe their continual existence, to the fact that the Imperial Government, possessing the railways in question, are able to extend to those enterprises and to the persons engaged in them due protection and defense against attack and pillage by lawless bands that still infest the country. In the development of these enterprises, which are contributing in such a marked degree to the prosperity and progress of Manchuria, a large number of Japanese subjects and large sums of Japanese money are enlisted, and the Imperial Government could not in good faith or with a due sense of their responsibility consent to surrender the means by which such protection and defense are made possible.

The observations which I have now the honor to present to your excellency, and which I venture to hope may prove as convincing to your excellency's Government as they are convincing to my own, have reference to the plan in its widest sense, but they are, I should add, no less applicable to the scheme in its more restricted form, since the two plans are in principle the same and differ only in degree.

In conclusion, I wish to express to your excellency the sincere appreciation of my Government for the courteous intimation of the United States concerning the projected Chinchow-Aigun line, and to say that in principle the Imperial Government will be prepared to participate in the enterprise with the other powers interested in the question. But as that question is clearly distinguishable from the main subject of your excellency's note, I will, with your permission, reserve this minor point for separate and independent attention when the necessary details regarding the matter are known.

I avail myself, etc.,

COUNT KOMURA.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1347.]

AMERICAN LEGATION,
Peking, January 24, 1910.

SIR: In continuation of the subject of the neutralization of the Manchurian railways and the Chinchow-Aigun Railway negotiations, I have the honor to report that the day following my call upon Duke Tsaitse, the president of the board of finance, I received from him a very polite note, a translation of which I inclose, informing me that the memorial recommending approval of the preliminary agreement would be presented in two or three days. This was confirmed by Mr. Liang Tun-yen in a conversation at the Wai-wu Pu on Tuesday, the 18th instant.

On the following morning, January 20, the memorials of the boards of foreign affairs, finance, and communications, recommending, as I was given to understand, the ratification of the preliminary agreement and instructing the viceroy to prepare a detailed agreement which would obviate some of the objections made to the preliminary contract, were presented to the Throne and received the imperial sanction.

This information I telegraphed the same evening, but as Mr. Liang, by reason of illness in his family, was not at his office I could not give any details.

On the 21st I received a formal note from the Wai-wu Pu, translation of which I inclose, and of which I telegraphed the substance to the department. As the note of the Wai-wu Pu, unintentionally, I believe, failed to state explicitly that the memorials referred specifically to the preliminary agreement, and as the memorials contain matter which it is desired to keep secret, I thought it best to elicit from the Wai-wu Pu a definite statement on the subject. Upon receipt of the department's telegraphic approval of this course, I prepared the inclosed note to the foreign office and yesterday called on Mr. Liang Tun-yen at his house. I explained to him that for the sake of clearness and to prevent any possible misunderstanding in the future I would, inasmuch as his note did not state explicitly that the edict ratified our preliminary agreement, address to him the note which I then read, and asked him if he could give me a definite reply. He said that he was sorry he had not stated in his note to me that

the memorials referred to the preliminary agreement; that of course such was the case, otherwise why would they communicate to me the edict, etc. I replied that we understood this to be so, but that as it did not appear clearly it would be better to have it definitely stated. He promised to reply in this sense to my note.

I have made it perfectly clear to the officials of all the boards with whom I have discussed the proposals of the United States that we fully rely upon the hearty support and cooperation of the Chinese Government in our efforts in their behalf and have in turn been assured of China's appreciation and readiness to do all in her power.

In connection with the subject of this dispatch I inclose copies of two reports made to the board of posts and communications by James Ginnell, Esq., a civil engineer employed by Pauling & Co., on the subject of the proposed Manchurian railways.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure 1.]

Duke Tsaitse to Chargé Fletcher.

JANUARY 16, 1910.

DEAR SIR: I was very favorably impressed by our conversation of yesterday, and I had a conference with the officials of the Wai-wu Pu this morning, repeating to them what you had said. A memorial will be presented to the Throne within two or three days on the subject of our conversation (or in the line of our conversation) and I was requested to inform you of this fact.

With best wishes, etc.,

TSAITSE.

[Inclosure 2—Translation.]

The Prince of Ching to Chargé Fletcher.

THE FOREIGN OFFICE,
Peking, January 21, 1910.

YOUR EXCELLENCY: It is on record that the viceroy of Manchuria and others have memorialized, asking permission to make a foreign loan to build by installments a railway from Chinchow to Aigun. The board of foreign affairs consulted with the boards of finance and communications and it was agreed to sanction the proposal. A memorial stating specifically that this sort of agreement should be drawn up in careful detail was sent in to the Throne on the tenth day of the twelfth moon of the first year of Hsuan-t'ung (Jan. 20, 1910), and the vermilion rescript "Let it be as decided" was reverently received. Besides instructing the viceroy concerned to act accordingly, this dispatch is now sent for the information of your excellency.

A necessary dispatch.

[SEAL OF THE WAI-WU PU.]

[Inclosure 3.]

Chargé Fletcher to the Prince of Ching.

AMERICAN LEGATION,
Peking, January 24, 1910.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your highness's polite note of the 21st instant informing this legation that: [Here follows text of note from Prince of Ching to Mr. Fletcher, Jan. 21, 1910.]

I have taken much pleasure in communicating this intelligence to Washington.

The legation has not before it copies of the memorials mentioned in your highness's note, but my Government takes it for granted that the imperial rescript recently

issued refers specifically to the preliminary agreement for the construction, etc., of the railway from Chinchow to Aigun signed on October 2 last, between their excellencies the viceroy of Manchuria and the governor of Fengtien and the representative of the American banking group and Pauling & Co.

This preliminary agreement, as your highness is aware, contains provision for the preparation of a detailed agreement satisfactory to all parties, and I shall therefore, if your highness's reply confirms my Government's understanding of the purport of the imperial rescript mentioned in your highness's note, advise the representative of the American banking group to hold himself in readiness to consult at the proper time with their excellencies the viceroy of Manchuria and governor of Fengtien with regard to the detailed agreement to be prepared in accordance with the imperial command.

I avail myself, etc.

HENRY P. FLETCHER.

Chargé Fletcher to the Secretary of State.

No. 1348.]

AMERICAN LEGATION,
Peking, January 31, 1910.

SIR: In continuation of my No. 1347, of the 24th instant, on the subject of Manchurian railways and with especial reference to the Chinchow-Aigun Railway, I have the honor to inclose translation of the reply of the foreign office to my note of the 24th instant (copy of which was inclosed with my No. 1347).

The Wai-wu Pu states explicitly that "the memorial which was sent in on the 20th of January, 1910, and which received the imperial rescript, did relate to the agreement drawn up between the viceroy of Manchuria and the governor of Fengtien on the one side and the American banking group and the British firm of Pauling & Co. on the other side, concerning the construction of a railroad from Chinchow to Aigun by installments. But this preliminary agreement contains certain provisions which are not acceptable and which must be changed, and the viceroy of Manchuria will need to reconsider the same in consultation with the representative of the American banking group and draw up a detailed and satisfactory agreement."

I have, etc.

HENRY P. FLETCHER.

[Inclosure—Translation.]

The Prince of Ching to Chargé Fletcher.

THE FOREIGN OFFICE,
Peking, January 27, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch on the subject of the memorial sent by my board regarding the construction of the railway from Chinchow Fu to Aigun in installments by means of a foreign loan to be negotiated by the viceroy of Manchuria and others. You remark that the legation has not before it copies of the memorials mentioned in my previous note, but that the American Government takes it for granted that the imperial rescript recently issued refers specifically to the preliminary agreement for the construction, etc., of the railway from Chinchow to Aigun, signed on October 2 last, between their excellencies the viceroy of Manchuria and the governor of Fengtien and the representative of the American banking group and Pauling & Co., and that this preliminary agreement contains provisions for the preparation of a detailed agreement satisfactory to all parties.

If the understanding of your excellency's Government as to the purport of the imperial rescript is correct, your excellency asks that a reply may be sent so that the representative of the American banking group may be advised to hold himself in readiness to consult at the proper time with the viceroy of Manchuria and the governor of Fengtien with regard to the detailed agreement to be drawn up.

In reply to your excellency's inquiry, I have the honor to state that the memorial which was sent in on the tenth day of the twelfth moon (Jan. 20, 1910), and which received the imperial rescript, did relate to the agreement drawn up between the viceroy of Manchuria and the governor of Fengtien on the one side and the American banking group and the British firm of Pauling & Co. on the other side, concerning the construction of a railroad from Chinchow to Aigun by installments. But this preliminary agreement contains certain provisions which are not acceptable and which must be changed, and the viceroy of Manchuria will need to reconsider the same in consultation with the representative of the American banking group and draw up a detailed and satisfactory agreement.

This reply is sent to your excellency for transmission to the American Government and that your excellency may instruct the representative of the American banking group to act accordingly.

A necessary dispatch.

[SEAL OF THE WAI-WU FU.]

Memorandum from the Russian Embassy.

IMPERIAL RUSSIAN EMBASSY,
Washington, February 2, 1910.

Information has reached the imperial ministry of foreign affairs to the effect that the contract for the construction of the Chinchow-Aigun Railroad has already been ratified by the Prince Regent of China and that the conditions of the loan will probably be signed about the 10th of February.

The Imperial Government consider that, having invited Russia to take part in the above-mentioned enterprise and having received their consent to examine the question upon receipt of further supplementary information which was promised them by Mr. Ambassador Rockhill, the United States Government thereby engaged not to take any steps in regard to the Chinchow-Aigun Railroad loan without consulting the Imperial Government and without taking into consideration such counter proposals as they might wish to make in regard to their possible participation in the financing of that enterprise.

The Imperial Government consider themselves entitled to expect that the final conclusion of the Chinchow-Aigun Railroad loan will not take place before they have had an opportunity to express their views in regard to that project.

The Russian ambassador is instructed to express himself in the above sense to the honorable the Secretary of State, and to report by cable.

Memorandum from the Russian Embassy.

IMPERIAL RUSSIAN EMBASSY,
Washington, February 4, 1910.

The Russian minister at Peking has, the day before yesterday, forwarded to the Chinese ministers a communication in the name of the Imperial Russian Government in which he points out that the Imperial Government attach the greatest importance to the question of a possible participation of Russia in the Chinchow-Aigun Railroad enterprise, but that the necessity of carefully considering this question precludes the possibility of at the present moment defining the position they may take in regard thereto.

At the same time the Imperial Government expressed the wish that China would take no final decision in the question of the Chinchow-Aigun line without previous consultation with Russia, as otherwise consequences might ensue undesirable as regards the relations between the two powers. -

The Russian ambassador is instructed to confidentially acquaint the Government of the United States with the step taken at Peking.

Ambassador Bacon to the Secretary of State.

No. 30.]

AMERICAN EMBASSY,
Paris, February 4, 1910.

SIR: I have the honor to send herewith a copy and translation of a memorandum, dated January 26 last, which has just been received from the minister for foreign affairs in reply to the communication which Mr. Bailly-Blanchard addressed to him in compliance with the department's cable.

I have, etc.,

ROBERT BACON.

[Inclosure—Translation.]

The French Government has the honor to thank the Government of the United States for its memorandum, dated December 17, 1909, relative to Manchuria, as well as for the proposals of participation which it contains both for the international system applicable eventually to the existing railroads and for the construction of a future line from Chinchow to Aigun.

In a general manner the Government of the Republic shares in the unanimous desire of the powers to maintain the "open door" and "the equality of commercial opportunities in Manchuria," and is happy to seize this opportunity to affirm once more the principle of the sovereignty of China.

It considers, moreover, that the above principles are not menaced at the present time by the actual situation held by Russia and Japan in Manchuria, the rights and the special position of these two powers there having been determined by treaties which form part of public international law, the clauses of which they have not ceased to respect.

Under these conditions France could not have adhered to the first alternative considered by the Federal Government (international administration and control of the railway lines in Manchuria) unless by a common accord the two powers most interested had been disposed to renounce their contract rights in Manchuria and to side with the American suggestion.

In practice, even outside of political and moral interests difficult to estimate, it would have been in any hypothesis hard to figure the material expenditures, public as well as private, which it was proposed to reimburse, and China would have run the risk of assuming a heavy burden for its credit.

The second proposition of the United States Government (construction of a railway line from Chinchow to Aigun by means of international participation) enters, if one considers it by itself, in the system of understanding between the powers for the construction, in agreement with China, of the Chinese railways, system to which the French Government has adhered; in this capacity it would be disposed, in this case, to take part under reserve of obtaining therewith advantages in proportion to its financial participation.

But this adherence in principle remains itself subordinate to the acceptance by the powers most interested, Russia and Japan, in case these should consider definitively that the question of the construction of the Chinchow-Aigun line can rest solely upon a business basis, without provoking political, strategic, or economic repercussions contrary to the rights which they hold by treaty.

PARIS, January 26, 1910.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1358.]

AMERICAN LEGATION,
Peking, February 7, 1910.

SIR: In continuation of my No. 1348, of the 31st ultimo, on the subject of the Chinchow-Aigun Railway, I have the honor to report, as I have done by telegraph, that at my interview with Mr. Liang Tun-yen on Saturday, the 5th instant, he informed me that he had received what he characterized as identical notes from the Japanese and Russian ministers to the effect that in view of their interests China should consult with Japan and Russia before concluding the details of the Chinchow Railway agreement. I gathered that Japan based her claims to be consulted on the fact that the proposed road would parallel the South Manchurian Railway, while Russia considered that the crossing of their line at Tsitsihar and the approach toward their undefended frontier at Aigun gave her a special interest in the undertaking. I have called on both Mr. Korostovetz and Mr. Ijuin and explained to them that the agreement was merely a loan contract and in no sense a concession, and asked in what way they wished to be consulted; that I felt sure such interests as they had would receive every consideration, but felt that it was reasonable to ask them to formulate their desires, as we had already broached the matter to their Governments and had been assured they found no objection in principle to the project. Mr. Ijuin said he had been instructed to inform China that it would be more friendly if China herself consulted Japan. He said that Japan did not intend to oppose the line, but merely wished to have more details.

I also explained the position fully to Mr. Korostovetz, who promised to correct some erroneous impressions of his Government and to ask for more definite instructions.

Mr. Max-Muller, the counselor of the British Legation, who, during the illness of Sir John Jordan, is in charge of the British Legation, called on me yesterday to say that he had been instructed to inform the Wai-wu Pu that his Government thought Russia should be consulted with reference to the Chinchow enterprise. I told him that I had already advised Mr. Liang in the same sense and that I hoped his representations would take such form as to leave no doubt in the mind of Mr. Liang that Great Britain was heartily in favor of the scheme. This he promised to do.

I have, etc.,

HENRY P. FLETCHER.

*Memorandum to the Russian Embassy.*DEPARTMENT OF STATE,
Washington, February 8, 1910.

In view of an apparent misunderstanding by the Imperial Russian Government of the nature of the proposal made by the United States for the neutralization of the railways in Manchuria and the relation of this to the project for the construction of a railway from Chinchow to Aigun, it seems proper to recount briefly the steps taken by this

Government in preparing and presenting to various powers the recent memorandum on those subjects.

On October 2, after some weeks of negotiation, an agreement was signed at Mukden by the Chinese viceroy on the one part and representatives of a firm of British contractors and a group of American capitalists on the other part for the construction by British and American capital of a railway from Chinchow to Tsitsihar and Aigun. This agreement has since been ratified by a Chinese imperial edict.

The United States was asked to give diplomatic support to this project and was inclined to do so, provided (1) that similar support should be given by Great Britain, since the line was to be built by British contractors and in part with British capital, and (2) that other interested powers pledged to the policy of "equal opportunity" should be invited to participate.

It is pertinent to recall at this point that during the month of October the Russian Government inquired, apropos of the then negotiations for the Hukuang loan, whether the United States would be disposed to welcome Russian cooperation in future railway loans in China. Just as this inquiry was naturally taken to indicate a favorable disposition on the part of Russia to loans like those involved in the propositions under discussion, so the reply of the United States was a very clear expression of a disposition entirely favorable to cordial cooperation in such cases between Russia and the United States.

Previous to these events, however, the Department of State had learned of the discussions in 1908 and 1909 between certain officials of the Chinese Eastern Railway Co. and certain American interests with a view to the possible purchase by the latter of the railway just mentioned. Moreover, while the plan for the Chinchow-Aigun line was under consideration several reports appeared in the press to the effect that Russia was considering the sale of this railway and had made overtures to China looking to the purchase of the line by the latter or by an international syndicate. Similar reports reached the department through the embassy at St. Petersburg.

These reports led the American Government to believe that it might be possible to avoid any question of a conflict of interests by suggesting a more economical arrangement whereby, through an international loan to China, all the existing railways in Manchuria, and such other lines as were in future found necessary, might be combined into one system. When, therefore, the British Government had intimated its willingness to give diplomatic support to the Chinchow-Aigun project, the United States Government on November 6 prepared a memorandum setting forth the advantages of the alternative plan and stating that the success of the plan would require the cooperation of Russia, Japan, and China, the concessionaires and the reversionary, respectively, of the existing Manchurian railways, as well as that of Great Britain and the United States, whose special, in contradistinction to their general commercial, interests rested upon the contract already signed for the Chinchow-Aigun Railway. It was believed, and so stated, that such an arrangement would be advantageous to the interests of all powers concerned, and to Russia and Japan certainly no less than others.

Owing to the fact that a British company had contracted to build the Chinchow-Aigun line, the alternative plan was presented first of all to the Government of Great Britain and was approved in principle by that Government. In the meantime, however, the department learned that the outlines of the plans were being publicly discussed in Europe and the Orient, and in order to avert the misunderstanding that might result from such uninformed discussion the American Government notified the British foreign office on December 14 that it seemed highly important, as a matter of international consideration, to lay the plan before the Governments of the other interested powers without delay, and that the American representatives would be instructed to do so. Accordingly, on the same day, December 14, the American ambassadors at St. Petersburg and Tokyo were instructed by cable in like terms to communicate formally to the Russian and Japanese Governments the memorandum previously sent to them for their information, taking care to set forth fully the ideas contained therein.

Previous to this, however, the ambassador at St. Petersburg had been instructed to ascertain the truth of the reports that Russia was considering the advisability of selling the Chinese Eastern Railway and had been given liberty to make informal use of the facts relative to the Manchurian project, which were then in his possession for his information. Next to the Government of Great Britain, therefore, the Imperial Government of Russia was the first to which any communication of the plan was made, and it will appear that the United States Government from the first realized the importance of securing the cooperation of Russia.

In the original instructions to the American ambassadors reference was made to an unpublished edict which the Government of the United States had been informed had been issued by the Chinese Government ratifying the Chinchow-Aigun Railway agreement, and all the ambassadors were alike instructed, as a matter of propriety, to withhold any reference to such edict. This instruction was unfortunately misunderstood by the American ambassador at St. Petersburg, who regarded it as directing him to withhold any reference to the Chinchow-Aigun Railway agreement as a whole. This mistake on the part of the ambassador was, however, promptly corrected by the Department of State so soon as it became known to the American Government and was explained by the ambassador to the Russian Government.

The Government of the United States could naturally not suppose that any friendly power would fail to interpret correctly its purposes in proposing a plan which it believed was in the best interests of all concerned and which was presented for consideration solely upon such merits as it might disclose. Nor did it occur to the American Government that in view of its consistent policy for many years past it should hesitate to bring to the attention of its associates any measures that might appear to further the policies to which all alike were solemnly committed.

On January 20 last, before the Imperial Russian Government had made its very prompt reply to the proposal of the United States for the internationalization of the Manchurian railways, the American ambassador at St. Petersburg was telegraphically instructed to

inform the Russian minister for foreign affairs that the American Government would greatly regret to have the decision of the Imperial Russian Government, when ultimately reached, influenced by any misunderstanding as to the nature of the proposal or the motive in making it and would appreciate an opportunity of presenting a fuller explanation of certain matters directly bearing upon the question. The explanation to which the telegram referred is that contained in the statement made above.

Memorandum to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, February 14, 1910.

The information already before the Imperial Russian Foreign Office makes it clear that the Government of the United States, when asked to support the Chinchow-Aigun Railway project, expressed its willingness and desire that all friendly powers to the complete commercial neutralization of Manchuria should be invited to participate in the financing and construction of that line. The Government of the United States for its part still adheres to the principle of participation and friendly cooperation of the interested powers, but can not admit that by inviting cooperation on the part of Russia it has in any way bound itself not to take any steps in regard to the proposed railway without consulting the Imperial Russian Government.

The proposal for such participation on the part of other powers was made on the basis of a contract already in existence, which has since been ratified by the Chinese Government. This contract, however, provides by its own terms for such revision of its provisions as may be deemed necessary, and consequently its ratification does not preclude the consideration of any suggestions that the Russian Government may care to offer. Pending the receipt, however, of an intimation from the Russian Government of its desire to participate in the enterprise, the Government of the United States must determine independently what measures it may take to support and confirm the rights of its nationals under the contract in which they are interested jointly with British subjects.

Memorandum from the Russian Embassy.

IMPERIAL RUSSIAN EMBASSY,
Washington, February 21, 1910.

Having duly transmitted by cable the text of the department's memorandum of February 8 and 14, the Russian ambassador is now instructed to request of the honorable the Secretary of State to be placed in possession of the conditions of the contract for the Chienchow-Aigun Railroad for transmission by cable to St. Petersburg, as it is necessary for the Imperial Russian Government to be fully and correctly informed on this matter in order to be able to decide the question of whether Russia could, and on what conditions, participate in the said enterprise.

Ambassador Hill to the Secretary of State.

No. 612.]

[Extract.]

AMERICAN EMBASSY,
Berlin, February 23, 1910.

SIR: With reference to the department's instruction of January 27, 1910, stating that the department was awaiting with interest the receipt of the written reply of the German Government to Mr. Hitt's memorandum embodying the department's telegram of November 6, 1 p. m., relative to the policy of the United States in the Chinese Empire, I have the honor to inform you that I am now in receipt of the foreign office's reply, under date of February 21, copy and translation of which, together with a copy and translation of its inclosed memorandum, are transmitted herewith, confirming the German Government's agreement with the general principles laid down in Mr. Hitt's memorandum above mentioned.

I have, etc.,

DAVID J. HILL.

[Inclosure 1.]

NOTE VERBALE.

IMPERIAL GERMAN FOREIGN OFFICE,
Berlin, February 21, 1910.

In reply to the note verbale of the 17th instant, F. O. No. 642, the foreign office has the honor respectfully to transmit herewith inclosed to the embassy of the United States of America the desired reply in writing to the memorandum of December 17, 1909, relative to questions regarding policy in China. This communication had not been sent in the supposition that the embassy considered the matter settled by the verbal communication to Mr. Hitt on December 24, 1909.

[Inclosure 2.]

MEMORANDUM.

The Imperial Government has taken note with lively interest of the memorandum of the embassy of the United States of America dated December 17, 1909, on the subject of the questions of policy in China. It is glad to declare its assent to the general principle developed in the memorandum, inasmuch as this principle is in full accord with the policy of the open door for China advocated by the Imperial Government.

*Memorandum from the Russian Embassy.*IMPERIAL RUSSIAN EMBASSY,
Washington, February 24, 1910.

A careful study of the Chinchow-Aigun Railroad project has convinced the Imperial Russian Government that such a railroad would be exceedingly injurious both to the strategic and to the economic interests of Russia. China in 1899¹ engaged not to build railroads to the north of Peking with foreign capital other than Russian, and Russia could be willing not to insist on the execution by China of this obligation only under the conditions that railroads built with capital provided by international syndicates should not be an evident menace to the security of the Russian frontier and should not injure the interests of Russia's railroad enterprise in Manchuria. On the other

¹ See dispatch No. 1386, Mar. 4, 1910, from China, p. 263.

hand, the Imperial Russian Government consider that foreign capitalists merely seek an advantageous investment of their capital and have no tendency to assist Chinese plans inimical to Russia and for this reason would see no objection to replace the Chinchow-Aigun project by another of equal value as to its economic importance and less disadvantageous to Russia.

For these reasons the Imperial Government has conceived the plan of proposing to China and to the English syndicate to build not the Chinchow-Aigun line, but to build a railroad from Kalgan, which is already connected with the northern Chinese railroads, to Urga, and further, to the Russian frontier at Kiakhta. The project of such a line has been under consideration for some time, and according to information in the possession of the Imperial Government is favorably considered by China and by foreigners interested in railroad building in China. The difficulties to its realization were considered primarily to be that for deriving from it every possible advantage it would be necessary that this line be connected with the Siberian Railroad. The Imperial Government would not object to such a connection and might for this purpose build a branch road from one of the stations of the Trans-Baikal Railroad to Kiakhta, but would desire as compensation therefor that Russia's participation in the building of the Kalgan-Urga-Kiakhta Railroad should take the form of letting Russian capitalists undertake the building of the section Urga-Kiakhta.

The Russian ambassador is instructed to confidentially acquaint the honorable the Secretary of State with the above and to express the hope that this counterproposal will be favorably received by the Government of the United States and enlist their support.

Memorandum to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, February 26, 1910.

In reply to the aide-mémoire left at the department on February 21, 1910, the Secretary of State has the honor to inform his excellency the Russian ambassador that the original preliminary contract for the Chinchow-Aigun Railway, signed on October 2 last and later ratified by the Imperial Chinese Government, provides for the construction and financing by British and American interests of a line, in sections, from Chinchow to Tsitsihar and thence to Aigun, at an approximate cost of £6,000,000. Provision is also made for the admission of other associates in the enterprise with the consent of the Chinese Government, in connection with which fact it will be recalled that from the beginning the Government of the United States has expressed itself as favorable to arrangement, at the proper time, for due participation by Russia and other interested powers.

The loan is to bear interest not to exceed 5 per cent per annum, guaranteed by the Chinese Government, and the usual preferences as to engineers and the purchase of materials are also reserved. There is likewise an important provision for future revision by detailed agreements of such points as it may be decided to reconsider. Under this provision, for example, the details of financing and construction are to be revised and elaborated in a separate agreement.

The Acting Secretary of State to Chargé Fletcher.

[Telegram—Extract.]

DEPARTMENT OF STATE,
Washington, March 1, 1910.

Mr. Wilson directs Mr. Fletcher to send, if possible, copy of text of China's alleged promise, made in 1899, not to build railways north of Peking without consulting Russia.

Ambassador O'Brien to the Secretary of State.

No. 1069.]

AMERICAN EMBASSY,
Tokyo, March 4, 1910.

SIR: I have the honor to inclose herewith a copy of a letter from Count Komura, minister for foreign affairs, dated yesterday, the 3d instant, in reply to my note to him of January 25 conveying to him the nature of your telegram of the 20th of January on the subject of the Manchurian railways. I have indirect information that the officials of the foreign office believe in the sincerity of your purpose, and that this reply has been fully considered and contains an expression of their genuine sentiments.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador O'Brien.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, March 3, 1910.

MONSIEUR L'AMBASSADEUR: I have the honor to acknowledge the receipt of your excellency's note of the 25th of January last, inclosing the paraphrase of a telegram from your Government in reference to the recent proposal of the United States on the subject of the neutralization of the Manchurian railways.

Although the answer of the Imperial Government to that proposal had already been made before the telegram in question was received by you, I was, nevertheless, gratified to be made acquainted with it, since it served to confirm the view entertained by the Imperial Government that the action of the United States in the matter was prompted by entirely friendly and disinterested motives.

I regret exceedingly that the unjust and inaccurate criticism of a section of the Japanese press in which the motives of your excellency's Government were called in question should have caused you annoyance. Such criticism was based upon garbled reports which originated outside of Japan. It had, therefore, the excuse of ignorance, but it did not, I am happy to be able to assure your excellency, reflect the sentiments or views of the Government or a very large majority of the people of this Empire.

I avail myself, etc.,

COUNT KOMURA.

Chargé Fletcher to the Secretary of State.

No. 1386.]

AMERICAN LEGATION,
Peking, March 4, 1910.

SIR: In compliance with the Department's telegraphic instruction dated March 1, 4 p. m., I have the honor to inclose herewith a copy and translation of the note addressed by the Tsung-li Yamen to the Russian minister, M. de Giers, on June 1, 1899, the Chinese text of

which was handed to me this morning by the Russian minister, Mr. Korostovetz. The note reads as follows:

YOUR EXCELLENCY: We discussed with your excellency a few days ago the subject of a railway connecting the Manchurian Railway with Peking, and explained the difficulty felt by the Chinese Government in acceding to the proposal. But we stated clearly that no other government would be allowed to construct such a railway.

We now wish to reiterate in the plainest terms that China agrees that if railways are in future built from Peking to the north or to the northeast toward the Russian border, China reserves the right to construct such roads with Chinese capital and under Chinese supervision, but if it is proposed to have such construction undertaken by any other nation, the proposal shall be first made to the Russian Government or to the Russian syndicate to construct the railway, and on no consideration will any other government or a syndicate of any other nationality be allowed to construct the railway.

We ask your excellency to communicate this message to the Foreign Office of your excellency's Government.

I have, etc.,

HENRY P. FLETCHER.

The Secretary of State to the Russian Ambassador.

DEPARTMENT OF STATE,
Washington, March 9, 1910.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your memorandum of February 24 last, setting forth the plan of your Government of proposing to China and the British-American interests concerned to build a railroad from Kalgan to Urga and Kiakhta in place of the Chinchow-Aigun line.

While, as your memorandum implies, the question is one which primarily concerns the Chinese Government and the British-American concessionaires who hold the contract for the construction of the Chinchow-Aigun line, yet I am glad to give the plan the consideration you invite. I feel the lack, however, of much technical information necessary to form an intelligent opinion on the subject. Moreover, I have up to the present been unaware of the existence of the agreement of 1899 by which China engaged not to build railroads north of Peking with foreign capital other than Russian, and I would greatly appreciate the courtesy if you are able to supply me with a copy of that agreement.

I am, my dear Baron Rosen, etc.,

P. C. KNOX.

Memorandum to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, April 18, 1910.

The Government of the United States has given most careful consideration to the Memorandum of the Imperial Russian Government, presented through the Embassy at Washington on February 24, 1910.

The American Government learns with regret that thus far the Imperial Russian Government still inclines to the view that the projected railway from Chinchou to Aigun, to be built by China by means of a foreign loan, would be injurious to the national and economic interests of Russia, as seemed, at the time, to be apprehended also of the more comprehensive proposals of the United States.

The rights of American citizens in the projected Chinchow-Tsitsihar-Aigun line, like those of the British company concerned are based upon a contract ratified by the Imperial Chinese Government. In lending its support to this enterprise on the part of its nationals the American Government has felt that it was acting not only in harmony with its traditional policy relating to China but also in full accord with its broad rights under existing treaties. In view of this policy which has repeatedly been recognized and accepted by the Powers, the Government of the United States could scarcely be supposed in any way to commit itself to a recognition of exclusive rights of any Power within any portion of the Chinese Empire under agreements such as that of 1899 between Russia and China, referred to in the Memorandum of the Imperial Russian Government, even if it did not seem incontrovertible that these had been spontaneously superseded precisely by the terms of other subsequent treaty provisions on the part of Russia.

This principle indeed has long been generally accepted by the Powers, including the Imperial Russian Government, notably in the exchange of notes of 1899 and 1902, relating to the policy of equal opportunity throughout the Chinese Empire, and it has more recently been reaffirmed in numerous international agreements until it has become an integral part of the law governing and controlling the relations and intercourse of the interested nations.

Moreover, having in view the rights enjoyed by the Government of the United States under prior treaties, it should be observed that the Government of China obviously could not by means of preferential agreements with any single power dispose of rights which it had already granted by treaty generally to other nations, and the United States would therefore be forced to contend that to invoke, in derogation of general treaty rights, such an agreement as the Russo-Chinese understanding of 1899 might nullify stipulations of treaties between China and foreign powers, and thus seriously curtail the rights of the nationals of other countries.

While the Government of the United States is led to make this candid statement of what it would hold to be the indisputable rights of its own nationals under its treaties with China, it is confident that the relations of friendship that have so long obtained between the two countries must absolutely preclude the idea that the American Government is in any respect unmindful of the important interests of Russia in eastern Asia.

The Government of the United States has from the first freely given repeated assurances of its sincere desire for cooperation with Russia in the matter of the construction of railways in China, and it rests confident in the belief that the Imperial Russian Government is not unappreciative of the assurances so given.

From this point of view it naturally follows that the American Government welcomes the principle of the proposal of the Imperial Russian Government (as to a possible line from Kalgan to Kiakhta) for the especial reason that it is happy to see therein the clearest expression of a reciprocal disposition on the part of Russia to cooperate with the United States in jointly aiding China's railway and commercial development. It is peculiarly gratifying to the United States to find this new reason to hope that the same principle as that embodied in the American proposals of last December may yet find

useful fruition through its appeal to the wise policy of the Imperial Russian Government.

Without further examination of a possible Kalgan-Kiakhta project as an independent one, and without proceeding to a consideration of such fundamental questions as that of China's disposition in the matter, the conditions of possible participation, etc., the Government of the United States ventures to revert, then, to the Chinchow-Aigun project.

While the Government of the United States, for the reasons already given, could not be expected to admit the right of any third power to obstruct the lawful enterprise of American citizens in any part of the Empire of China, and has, moreover, no reason to believe that Russia would wish to assert any such right, it is at the same time prepared to use its influence with its own nationals and with the Chinese Government to secure the full and friendly consideration of such modifications of the Chinchow-Tsitsihar-Aigun project as the Imperial Government of Russia might wish to propose. The American Government has indeed taken the greatest pleasure in instructing its representative at Peking in this sense.

Looking to the eventuality of avail by Russia of the opportunity thus created, the American Government would suggest, as a practical step, that so soon as an agreement is reached in principle between the interested governments the details of the Chinchow-Tsitsihar-Aigun line and of the possible modifications of the project should be referred to the representatives of the respective financial groups and of the Chinese Government, who are primarily concerned in any phase of these projects, whether the more comprehensive or a single line.

Pending further discussion of broader plans of cooperation, the American group's representative at Peking and his British associate are desirous of making precise the practical provisions for at least the first stages of the Chinchow-Tsitsihar-Aigun line, to which it is believed there can be no possible objection, and the American Government hopes that, in view of the present fair prospects of more important cooperation and of harmony of policy, the Imperial Russian Government will now find it consistent with its broader policy to authorize its representative at Peking to reassure the Government of China of the withdrawal of Russia's remonstrance, a deference for which, due to Russia's universally recognized interests, has alone delayed the efforts of those concerned.

The Secretary of State to Ambassador Rockhill.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 18, 1910.

Mr. Knox communicates to Mr. Rockhill a brief résumé of the long memorandum handed to-day to the Russian ambassador in Washington and directs Mr. Rockhill to communicate the résumé to the American embassies in France, Great Britain, and Germany for their information.

The Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 18, 1910.

Mr. Knox informs Mr. Calhoun that the following telegram has to-day been sent to the American embassy at St. Petersburg:¹

Mr. Knox states that Mr. Calhoun may read this telegram to the minister for foreign affairs for his information. Directs that the telegram be repeated to the American embassy at Tokyo.

Ambassador Rockhill to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, April 24, 1910.

Mr. Rockhill reports that he called upon the minister of finance to-day. He says the minister has received a résumé of the department's memorandum of the 18th instant handed to the Russian ambassador, and he expressed the hope that the minister would agree to full and friendly discussion of modifications to the Chinchow-Aigun project and other suggestions contained in the memorandum and not send immediate reply to all the points raised, as was done with the former memorandum.

The minister said that he was now sending a surveying party out from Harbin to go over the proposed line to study different aspects of the question, and that by next July he expected a full report, after the receipt of which a full discussion could be held.

Mr. Rockhill thinks no reply will be made to the last paragraph of the department's memorandum until a full report has been received here.

Mr. Rockhill adds that the minister of finance is hopeful that some basis of agreement may be reached after a full, informal, and confidential discussion.

Ambassador Reid to the Secretary of State.

[Extract.]

No. 1319.]

AMERICAN EMBASSY,
London, June 17, 1910.

SIR: I have the honor to inclose herewith, as of interest to the department, extracts from the London Times of June 16 containing the report of a parliamentary question relative to the policy of the British Government in the matter of the Chinchow-Aigun Railway, asked by Mr. Arbuthnot on the 15th instant, together with the report of Sir Edward Grey's reply thereto.

I have, etc.,

WHITELAW REID.

¹ Telegram of Apr. 18 supra.

[Inclosure.]

[From the London Times, Thursday, June 16, 1910.]

Mr. Arbuthnot (Burnley, Opp.) took the opportunity to obtain information as to the policy being followed in reference to railway construction in China. The impression prevailed that British interests in China were not being adequately supported by the Government, and answers given in reference to the Chinchow and Aigun Railway contract were not satisfactory. This railway had been sanctioned by Chinese imperial rescript, but there had been protests from Japan requiring a share of financial control, and by Russia on strategical grounds. The impression was that the British Government considered it advisable to support these protests regardless of British commercial interests. The two reasons given by His Majesty's Government for their inability to take an active part in supporting British interests were, first, that the railway was one which did not largely affect the interests of this country; and, secondly, on account of the provisions of the Anglo-Russian agreement. The first reason was wholly opposed to the view of the commercial community. It must be obvious that the construction of a railway of this kind was a matter of the highest importance to British trade. The second reason was even more remarkable than the first. By the terms of the Anglo-Russian agreement Great Britain undertook not to seek railway concessions north of the Great Wall of China on condition that Russia did not attempt to seek railway concessions south of the Great Wall. What in the world, he would ask the right honorable gentleman, had that got to do with the Chinchow-Aigun Railway, in which there was not one penny piece of concession? He also asked the right honorable gentleman whether the Anglo-Russian agreement was not out of date; or whether, at all events, it had not been very considerably modified by subsequent treaties, which laid down the principles of equal opportunities and the open door. He thought there was a call for some further elucidation from the Government as to the relationship between the old doctrine of spheres of influence and the new doctrine laid down by these treaties. The attitude of this country had given rise to considerable hostile comment in America, and he hoped the right honorable gentleman would be able to make a statement which would allay certain misapprehensions and clear up what he believed to be certain misunderstandings which existed.

Now, I come to the question of the Chinchow-Aigun Railway. I am afraid that on this point I shall disappoint the expectation of honorable members. I was not aware that this particular question was likely to arise in debate. I was told, through the usual channels, that the question of China would arise. There are many questions associated with China, and in endeavoring to ascertain which of these questions was likely to be raised I did not understand that the Chinchow-Aigun Railway was one of them. I have not, therefore, been able to refer back to all the details of this particular railway, and that is why I say I am afraid my remarks on this subject will be rather meager and will probably disappoint the expectations of those who expect to hear an important statement. The Chinchow-Aigun Railway is promoted by American financiers and a British firm of contractors, who applied for, and have been promised, a concession from the Chinese Government. It is not a concession of the particular kind referred to by the honorable member who raised the question, but it is something which is to be given to them by the Chinese Government in the nature of a concession for a loan for the making of a railway. That is perfectly legitimate on their part, and I have not the least right to complain, and I do not complain, of any action that has been taken. On the contrary, I look very favorably upon the cooperation of British and American firms in this or any other matter, and I am very glad to see them cooperating. I therefore do not in the least deprecate anything that has been done in this matter. But when I am asked to come forward and put diplomatic pressure upon the Chinese Government to put this agreement through, then I am brought up by the fact that in 1897 notes were exchanged between the British and the Russian Governments under which we agreed, on our part, not to press for railway concessions in this particular region. It is true we did not undertake any obligations to discourage them or to prevent British firms applying for them or promoting railways there. It was a purely negative undertaking on our part. But what I am reproached for is that I have not taken an active and positive part in promoting the construction of this railway. I think the honorable member who raised the question put a technical and somewhat narrow construction upon the Anglo-Russian agreement of 1897. He asked if it had not been superseded by a subsequent arrangement. In so far as it may have been modified by subsequent arrangements superior to it, it would have been superseded, but I am not aware that arrangements which were subsequently made have altered the natural meaning of the Anglo-Russian agreement or deprived it of its force. If any agreement of that kind still exists it ought not to be put an end to without

a mutual understanding between the two Governments concerned, and it ought not to be modified unless they understand exactly what the modification means.

The Chinchow-Aigun Railway is a railway which is to cross the line to Russia, and is to extend right up to the Russian frontier. In these circumstances understand exactly what the modification means.

The Chinchow-Aigun Railway is a railway which is to cross the line to Russia, and is to extend right up to the Russian frontier. In these circumstances I think that if the Chinese were going to have this railway made by foreigners we could not, in the face of the Anglo-Russian agreement, take an active part in supporting it until the Chinese had come to terms with Russia about it. Japan has not opposed the railway in principle, but has asked for participation, and I think that was a perfectly reasonable demand on the part of Japan. If Japan had taken up the line of stating that she wished to have a railway monopoly in Manchuria, that would have been a distinct breach of the open door. If she made use of her position there by giving preferential treatment to her own people as against others, that again would be a breach of the open door. But for Japan to say that after all that has passed she has an interest in Manchuria which justifies her in wishing for participation in railways which may to some extent compete with the railway which is already in existence—not, I say, in opposing them in principle, but in asking for participation in them—it would be going too far for us to declare that that is an unreasonable demand to make, and to take active diplomatic steps at Peking to press for the granting of this concession.

MR. ARBUTHNOT. Is it not a fact that the Japanese demand involves some control over and above participation?

SIR E. GREY. I am not quite sure on that point. All that I am defending is our attitude of neutrality. In the face of the Anglo-Russian agreement it would have been impossible for us to take up the attitude of actively promoting the railway, which is going to be constructed by foreigners with money lent by foreigners, which is going to cross the Russian line at one point, and extend up to the Russian frontier and, therefore, is going to have a considerable influence on Russia's strategical position, and to press for that railway without Russia being given any chance of participation, I think the only course consistent with the original interpretation of our political obligations in this respect is that we should say that, while we have every wish to see British and American finance cooperate in railway construction in China, yet in regard to this particular railway we can not but think it reasonable that China should consult both with Japan and with Russia if she intends to have this railway made by foreigners. In face of the Anglo-Russian agreement of 1897, the only reasonable course for us to adopt would be to maintain a neutral attitude until the Russian and Japanese objections to the railway have been removed. I think that is the only reasonable course we can take, both on the grounds of our general policy and in accordance with the general sense of our treaty engagements. (Cheers.)

MR. G. STEWART (Cheshire, Wirral, Opp.) said the termination of the Russo-Japanese War brought about in China a new era, in which we were allotted the Yangtze Valley as our particular sphere of influence. But now the Yangtze Valley was opened to everybody, and he thought it only fair that Englishmen should be given opportunities in Manchuria, Shantung, and other spheres which were now closed to them. (Hear! hear!)

THE HUKUANG RAILWAY LOAN.

[Continued from Foreign Relations, 1909, p. 144.]

File No. 5315/687.

Chargé Phillips to the Secretary of State.

No. 1129.]

AMERICAN AMBASSY,
London, January 5, 1910.

SIR: Referring to the department's telegram of December 27, 1909,¹ 5 p. m., and previous correspondence in regard to the Hukuang loan negotiations, I have the honor to inclose herewith a copy of the foreign office note of the 3d instant upon which Mr. Reid's cable of January 4, 1910, 6 p. m., was based.

I have, etc.,

WILLIAM PHILLIPS.

¹ See Foreign Relations, 1909, p. 215.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador Reid.

No. 47103/09.

FOREIGN OFFICE,
London, January 3, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's memorandum dated the 29th ultimo, stating that it had been represented to the United States Government that the French Government would withdraw their objection to the signature of the Hukuang loan agreements provided that the French group received engineering rights on an additional 100 kilometers of the Ch'eng-tu extension, and expressing the willingness of your Government, if the report was well founded, to share equally with His Majesty's Government in making such sacrifice of engineering rights provided certain conditions were fulfilled.

I have the honor to state in reply that no information to the effect that the French Government would be satisfied if their group received engineering rights on an additional 100 kilometers of the extension has so far reached His Majesty's Government.

My latest information, which is contained in a note from the French embassy dated the 8th ultimo, is to the effect that the French group are unable to accept a share of the Szechuen line inferior to that allotted to the other groups or to agree to any reduction of the line given them by the Anglo-Franco-German arrangement of May 14 last.

I expressed my regret at the decision of the French Government to allow the slight and comparatively unimportant difference between the share allotted to the American and German groups and that allotted to the Anglo-French group to interfere with the settlement of the whole question, and I added that I observed with surprise that the Hankow-Canton line should be mentioned on an apparently equal footing with the Hankow-Szechuen line, as if the two lines formed part of one undertaking. I said that in the circumstances it would appear that the only solution of the question now remaining was the division of the Szechuen line into four equal parts among the four groups, with the internationalization of the bonds, as desired by the United States Government, and that I was prepared, subject to the concurrence of the French Government, to put this proposal before the United States and German Governments.

I have, etc.,

(For the Secretary of State:)

F. A. CAMPBELL.

File No. 5315/666.

The Secretary of State to Ambassador Bacon.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 8, 1910.

Refers to department's telegram of December 27,¹ and states that the American embassy at London informed the department on January 4 of the proposal of the British Government for a division of the Szechuen line into four equal parts among the four groups. Mr. Knox says that this proposal is entirely unacceptable to this Government, as it would cancel the agreement already reached between the United States and Germany which Great Britain has approved. Mr. Bacon is directed to urge the acceptance of our proposal as the most feasible and equitable, and to repeat this instruction to London and Berlin.

File No. 5315/677.

The Secretary of State to Chargé Fletcher.

[Extract.]

No. 692.]

DEPARTMENT OF STATE,
Washington, January 19, 1910.

SIR: I have to acknowledge the receipt of your No. 1309, of December 3, 1909, reporting that no progress in the Hukuang loan

¹ See Foreign Relations, 1909, p. 215.

negotiations has been made at Peking since the death of His Excellency Chang Chihtung. The department has learned through the newspapers and from commercial houses that the Chinese have already begun the building of the line from Ichang to Wanhhsien, which, it is understood here, anticipates in a measure the proposed extension into Szechuen of the system covered by the loan under negotiation. The department, in its negotiations with the other powers concerned, has held it to be unwise to imperil the success of the present loan for the sake of an agreement as to engineering rights upon a line for the financing of which a concession may never be obtained.

For your information I summarize the negotiations since November 24, the date of the department's last telegram to you upon this subject.

On November 24 the British foreign office informed the American embassy of its willingness to instruct the British group to sign, and on the following day the embassy at Berlin reported a similar willingness on the part of the German foreign office to instruct the German group to sign the agreements. This last-mentioned action was based on an understanding between the United States and Germany that the Americans should have an engineer on the Hsiangyang-Kuangshui section in compensation for the surrender of 200 kilometers on the extension, the American engineer to be subordinate to the German chief engineer, provided American broad rights should not be disturbed—i. e., that Americans should enjoy equal facilities for the receipt of tenders and equal consideration for materials on the entire system and both sections, as secured by the amendment of article 18.

On December 3, by an exchange of telegrams between the department and the embassy at Berlin, the American and the German Governments communicated each to the other its assent to the arrangement, mentioned above, whereby the Americans were to have engineering rights on the Hsiangyang-Kuangshui section of the Hankow-Szechuen line.

On December 11 the embassy at London reported that the foreign office had received demands from the French Government to which it could not agree, but had telegraphed the representative of the British group in Paris to sacrifice in favor of the French sufficient mileage to make the French and German sections equal in length, meaning apparently the sacrifice of 100 kilometers on the proposed Szechuen extension. The British group, however, refused to make this sacrifice. On December 16 the embassy at Paris reported that the French Government was ready to adhere to the agreements so soon as it obtained in the Hankow-Canton and Hankow-Ch'eng-tu lines a share equal to the share of the other powers, which could be done by assigning to the French the third section of the proposed Ch'eng-tu extension. The London embassy on December 18 reported that the French Government had suggested two compromises: First, that interchangeability of bonds be waived or, secondly, that all mileage be equal and interchangeability allowed.

The embassy at London on December 24 telegraphed that the British Government was about to suggest to France that the four groups should agree to an equal division of the Szechuen line accompanied by internationalization of the bonds. This would mean an increase of British mileage and a decrease of American. On the 27th of the same month the department telegraphed the embassy at Paris, and that at London also, that the United States was willing to share equally with Great Britain in making the sacrifice necessary

to give the French an additional 100 kilometers on the Ch'eng-tu extension, provided the agreements should be signed without delay and subject to the conditions that our equal rights in all matters relating to the purchase of materials for the Ch'eng-tu extension and branches be guaranteed, and, secondly, that a satisfactory arrangement be made for interchangeability of bonds.

Referring to the claim of the French Government to a share equal to that of the other powers in the Canton-Hankow and Hankow-Szechuen lines, the British foreign office, on January 4, expressed to the American embassy its surprise that the Hankow-Canton line should be mentioned on an apparently equal footing with the Hankow-Szechuen line, as if the two lines formed parts of one undertaking. The British foreign office on the same date insisted that the only solution would be an equal division of the Szechuen line among the four groups, with internationalization of the bonds.

This proposal of the British Government that the Szechuen line should be apportioned equally among the four groups is not acceptable to this Government, inasmuch as it would involve the cancellation of the agreement already made between the United States and Germany and acceded to by the British Government. This has been communicated to all the powers concerned.

I am, etc.,

P. C. KNOX.

File No. 5315/713.

The Secretary of State to Chargé Phillips.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 2, 1910.

Mr. Knox informs Mr. Phillips that this Government is disposed, in the interest of an immediate and friendly settlement, to concede to France the whole of the 100 additional kilometers of engineering rights on the Szechuen extension on condition that Great Britain satisfies the French demand as to subengineers, provided American equal rights as to purchase of materials on both lines are fully guaranteed; and, further, that the existing arrangements with Germany be not disturbed.

Mr. Knox adds that Mr. Phillips may informally cooperate with the American group along this line and inform the department of the result.

File No. 5315/769.

Chargé Phillips to the Secretary of State.

No. 1163.]

AMERICAN EMBASSY,
London, February 4, 1910.

SIR: Referring to my cable February 3, I have the honor to transmit herewith a copy of a note from the foreign office, dated February 2, giving the substance of the communication from the French embassy concerning the division of the Szechuen line into four equal parts, and also the substance of British reply thereto.

I have, etc.,

(For the chargé d'affaires.)
HUGH S. GIBSON.

[Inclosure.]

The Minister for Foreign Affairs to Chargé Phillips.

No. 1696/10.

FOREIGN OFFICE,
London, February 2, 1910.

SIR: With reference to your letter to Sir Charles Hardinge of the 11th ultimo relative to the Hukuang loan negotiations, I have the honor to inform you that I have now been informed by the French embassy that the proposed division of the Szechuen Railway (Hankow-Ichang) into four equal parts among the four groups is not unacceptable to the French Government provided that the principle of equality between the French and British groups be extended to the Hankow-Canton Railway by the appointment of a French subengineer, and that in the event of China granting the concession for the extension beyond Ichang the French group receive as compensation for the section they are giving up to the American group the fourth or most westerly section of the Hankow-Szechuen line, which was allotted to the British group by the agreement of May 14 last, made at Berlin and subsequently ratified in London.

I have informed the French Government in reply that, while noting with satisfaction their acceptance of the proposal in regard to the division of the Szechuen line, I see no reason for departing from the understanding arrived at last spring in regard to the two points above alluded to, since the inclusion of the American group involves equal sacrifices on the Szechuen line for all three groups, and can not therefore be held to affect the distribution of engineering sections on either line in the manner suggested by the French Government. I added that in the opinion of His Majesty's Government the reopening of these questions was to be greatly deprecated, as tending to the conclusion that there was to be no finality in any of these negotiations.

I have, etc.,

(For the Secretary of State:)
F. A. CAMPBELL.

File No. 5315/736.

The Secretary of State to Chargé Phillips.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1910.

Mr. Knox informs Mr. Phillips that the United States regrets that, for reasons already stated, it can not accept the proposal of Great Britain to divide the Hankow-Szechuen line into four equal engineering sections, but that it is prepared to yield in favor of France 100 kilometers engineering rights on the Szechuen extension, provided Great Britain will satisfy France's desire in other respects. Mr. Knox adds that this proposal is, of course, subject to the conditions stated in department's telegram of December 27.

Mr. Phillips is informed that he may present this proposal formally to the foreign office, provided and when an arrangement has first been reached among the financial groups on this basis.

Mr. Knox directs that this instruction be repeated to Paris and Berlin for like action.

File No. 5315/813.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Paris, March 2, 1910.

Mr. Bacon states that the foreign office has not yet received a reply from England, but in answer to his specific question said that he might inform his Government that France would be perfectly

satisfied to accept proposition to concede to France 100 kilometers Ch'eng-tu extension, England to satisfy them as to subengineer Hankow-Canton, France to have westernmost division of Ch'eng-tu extension.

File No. 5315/826c.

The Acting Secretary of State to Ambassador Reid.

[Telegram—Extract—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 5, 1910.

Mr. Wilson informs Mr. Reid that in view of favorable reception by French Government and group of the proposal contained in the department's telegram of February 8, he will present the substance of that instruction formally to the British Government and urge an early settlement of this question on the basis of the American proposal, which now appears to be acceptable to all the other interests concerned. Mr. Reid is directed to repeat this telegram to the American Embassies at Berlin and Paris for their information.

File No. 5315/859.

The Secretary of State to Ambassador Reid.

No. 1255.]

DEPARTMENT OF STATE,
Washington, March 22, 1910.

SIR: I have to acknowledge the receipt of your Nos. 1203 and 1204,¹ of March 8, 1910, together with your telegrams of March 12 and 15, on the subject of the Hukuang loan.

In your discussion of this subject with the British Foreign Office you will not overlook the fact that the fundamental difference in the position assumed by Great Britain and that of the other three Powers concerned is that while the latter regard engineering rights on the Hankow-Canton line as an integral part of the Hukuang loan arrangement, Great Britain insists upon treating that section as separate and reserved to herself alone.

In order rightly to appreciate the situation, it is necessary to go back to the agreement of March 7 last between Germany and Great Britain. Germany at that time held the right, by virtue of an agreement with the Chinese Government, to build the section in question. This right was transferred to Great Britain in exchange for the first section of the Szechuen line west from Hankow, of approximately the same length. The conclusions reached by the German Foreign Office, in its memorandum to the British Government of date November 5, 1909,¹ namely, that by the agreement of March 7 the Hankow-Canton line was made part and parcel of the Hukuang loan arrangement, appear to this Government to be incontestable.

A careful view of the correspondence, such as you doubtless have made, will make it clear that the original rights of the United States were to a one-half interest in the whole Hankow-Szechuen line, including extensions. In lieu of a strict insistence upon those rights we accepted, as a virtual equivalent, a quarter interest in the combined lines covered by the Hukuang agreement, namely, the Canton-

¹ Not printed.

Hankow line and the Hupeh section of the Hankow-Szechuen line. Owing to the lateness of our arrival on the field we waived our rights as to chief engineering on the lines covered by that agreement, but in so doing distinctly reserved our rights as to engineers on further extensions. The 800 kilometers ultimately demanded by the United States, in virtue of this reserved right, represented its just share, whether regarded from the standpoint of its original rights to one-half of the Szechuen extension or from that of its one-fourth interest in the combined lines. This is the basis upon which the United States has proceeded up to the present time. By a friendly arrangement with Germany we agreed to accept 200 kilometers subengineering rights on the section held by its nationals and to reduce our demands as to the extension by a corresponding amount. By our last proposition we have offered still further to reduce our claims as to the extension by yielding to France an additional 100 kilometers, leaving us chief engineering rights on a total of but 500 kilometers, with subengineering rights on 200.

By the arrangement proposed by the United States, Great Britain, so far from having less than the others, as stated by Sir Edward Grey, would retain chief engineering rights on a total mileage of 1,400 kilometers to Germany's 800, France's 600, and America's 500. The acceptance of the British proposal would give the British group 1,500 kilometers and the United States 400. Moreover, the department fails to follow the reasoning by which the British group contends that the Canton-Hankow line, while included as an integral part of the Hukuang agreement in respect to financing, supply of materials, and in all other important regards, is excluded from the scope of that agreement in the matter of engineering rights alone.

The position taken by the French Government appears to be identical with that of the United States and Germany. Each of these Governments has regarded the matter of engineering rights on the combined lines, amounting to 3,300 kilometers, as one proposition, and each has based its demands on a virtual one-fourth of that total. To restrict this principle of division into four equal parts to the Szechuen line alone, as proposed by Great Britain, seems to the Department to be essentially unjust.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 5315/895.

Ambassador Reid to the Secretary of State.

No. 1233.]

AMERICAN EMBASSY,
London, April 5, 1910.

SIR: With reference to your instruction No. 1255, of the 22d ultimo, on the subject of the Hukuang loan, I have the honor to inclose herewith copy of my note to the foreign office dated April 2, in which I again review the position of the United States, laying emphasis on the fact that the Hankow-Canton line, being an integral part of the Hukuang agreement, should therefore be considered in connection with the equal division of engineering rights among the interested powers.

I have, etc.,

WHITELAW REID,

[Inclosure.]

*Ambassador Reid to the Minister for Foreign Affairs.*AMERICAN EMBASSY,
London, April 2, 1910.

SIR: My Government has been awaiting with great interest the result of the agreement between the British and French financial groups on the division of interests in the Hankow-Canton and Hankow-Szechuen Railways, of which you were good enough to advise me in our conversation of March 15. So far we can only learn that the agreement has not received the prompt sanction of the French Government which was then expected, for the apparent reason that it is thought to violate the equality between the groups representing the four nations for which you and they as well as we have been seeking.

While this unexpected delay is thus prolonged, and the negotiations regarding this equal division, which have now been in progress for 10 months, since June 3, 1909, still bring forth nothing, I venture, with the authority of my Government, to ask attention to what may be the cause of their sterility. Is it not possible that it results from a fundamental difference in what is really meant by the equality at which we all say we are aiming? Does not Great Britain mean equality in engineering rights on the Hankow-Canton line exclusively for herself? And do not the other powers regard the Hankow-Canton line as an integral part of the Hukuang loan arrangement, and therefore to be considered in the equal division of engineering rights?

Now, the original right of the United States was incontestably to one-half interest in the whole Hankow-Szechuen line, including extensions. On the suggestion of other parties interested we accepted as a virtual equivalent a quarter interest in the combined lines covered by the Hukuang agreement, the Canton-Hankow line and the Hupeh section of the Hankow-Szechuen line. Because we were late in the field, we waived our rights as to chief engineers, but reserved them on further extensions. We thus became entitled to 800 kilometers, whether you consider our original half of the Szechuen lines or our fourth in the combined lines. To facilitate agreement, we accepted subengineering rights on 200 kilometers from Germany, and made a further concession of 100 kilometers to France, leaving ourselves chief engineering rights on only 500 kilometers.

Now, as my Government understands the effect of the British proposal, it would leave us still less, only 400 kilometers with chief engineering rights, against 1,500 for Great Britain. We quite fail to see why the Canton-Hankow line should be an integral part of the Hukuang agreement for the loan and materials but not for engineering rights. We gladly assent to the principle of equal division, but we can not consider that division equal.

I have, etc.,

WHITELAW REID.

File No. 5315/902.

Chargé Phillips to the Secretary of State.

No. 1241.]

AMERICAN EMBASSY,
London, April 12, 1910.

SIR: Referring to Mr. Reid's dispatch No. 1233, of the 5th instant, relative to the Hankow-Szechuen loan negotiations, I have the honor to inclose herewith a copy of the foreign office reply, dated the 11th instant, which maintains the former position of the British Government with respect to their proposal to divide the engineering rights of the whole Hankow-Szechuen line equally between the four groups.

It is admitted that the Hankow-Canton line does undoubtedly form an integral part of the whole loan agreement, with the reservation, however, that on May 19 last an arrangement was concluded between the British, French, and German groups by which the chief engineer on this section should be British. The foreign office seems inclined to the view that the United States, by agreeing to waive their rights as to a chief engineer on the Canton line, has acknowledged thereby the privileged position of the British. In the language of the note:

It therefore follows that neither the American nor the French group can reasonably claim engineering rights on the Canton section of the Hukuang Railway.

As regards the Szechuen portion of the railway the British Government are aware that the Germans have only given the American group 200 kilometers subengineering rights, but are of the opinion that 200 kilometers, since they are part of a line already conceded by China, are of more value than a concession of an extension which is merely problematical. As tending to show that in their opinion the proposed division is a fair one, the British group are still willing to exchange sections with the American group.

In conclusion, Sir Edward Grey earnestly trusts that the United States will accept his point of view and in so doing greatly facilitate an agreement between the four groups which is daily becoming more urgent.

I have to-day cabled you the substance of the inclosed note.

I have, etc.,

WILLIAM PHILLIPS.

[Inclosure.]

The Minister of Foreign Affairs to Ambassador Reid.

No. 11480/10.

FOREIGN OFFICE,
London, April 11, 1910.

YOUR EXCELLENCY: I have received your excellency's note of the 2d instant, stating that the United States Government assent to the principle of equal division in the matter of engineers on the Hukuang Railway, but that they do not consider the arrangement proposed by His Majesty's Government to be an equitable manner of settling the question.

Your excellency adds that the effect of the British proposal would appear to leave the American group only 400 kilometers, as against the 1,500 kilometers given to the British group, and that your Government fail to see why the Hankow-Canton section should be an integral part of the Hukuang agreement for the loan and materials, but not for engineering rights.

I would, however, point out that the United States Government themselves admit that having arrived late in the field they agreed to waive their rights as to chief engineers, though reserving them on further extensions, and this undertaking would therefore appear to exclude, as far as the American group is concerned, the Hankow-Canton section from the discussion.

This section does undoubtedly form an integral part of the whole loan agreement, with the important reservation, however, of the chief engineer, who, by an arrangement come to between the French and British groups in February, 1908, and confirmed by the British, French, and German groups on May 19 last, was to be British.

It therefore follows that neither the American nor the French group can reasonably claim engineering rights on the Canton section of the Hukuang Railway.

As regards the Szechuen portion of the railway, His Majesty's Government have always maintained that though they had agreed to make the necessary sacrifices in order to admit last summer the American group into the arrangement, these sacrifices should at any rate not be greater than those made by the other two groups, and it is for this reason that they have proposed a division of the line into four equal parts of 600 kilometers per group.

I am aware that the Germans have only given the American group the right to appoint a subengineer on 200 kilometers of their 800, which, with the 400 allotted to the American group on the extension to Ch'eng-tu if and when conceded by China, will make up their 600 kilometers; but it must be borne in mind that these 200 kilometers are part of a line already conceded by China, whereas the concession of the extension is, to say the least of it, problematical. Moreover, that the division is a fair one, at any rate, in the opinion of the British group, is, I think, amply proved by the recent offer made by that group to exchange sections with the American group, an offer which your excellency will recollect was not accepted.

It will therefore be seen that the privileged position of the British group on the Canton line has been acquiesced in by the French and later on by the French and German groups, and last of all by the American group itself, inasmuch as it waived its rights to a chief engineer except on any extension of the present line, and that the American group have a position on the Szechuen line at any rate equal to that held by the British group, which, it must not be forgotten, has never withdrawn its offer to exchange sections with the American group should they so desire.

It is perfectly true, as stated in your excellency's note, that the arrangement proposed does not constitute an equal division of the whole of the lines now under discussion, but His Majesty's Government have always claimed and still claim, on behalf of the British, that they are entitled to a privileged position as regards the Hankow-Canton section in virtue of their having alone advanced the funds required to enable China to repurchase the concession of this line from the original holders. Moreover, the preference thus claimed is now confined to a mere question of engineering rights, absolute equality as regards finance and material having already been conceded.

In these circumstances I earnestly trust that the United States Government will see their way to accepting the point of view of His Majesty's Government in the matter, and I have no reason to doubt that their acquiescence would greatly facilitate an agreement between the four groups, which, in view of recent events in the Yangtze Valley, is daily becoming more urgent.

I have, etc.,

(For the Secretary of State):
F. A. CAMPBELL.

File No. 5315/925.

Ambassador Reid to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, May 18, 1910.

Mr. Reid reports that he understands that the various groups are in accord as to settlement of Hukuang loan, the United States having 400 kilometers engineering rights on projected and 200 subengineering rights on actual Hankow-Szechuen line. He says that Mr. Grenfell informs him it is now proposed, and generally approved by the bankers, that if any additional mileage is constructed above the 2,400 kilometers, making a total not to exceed 3,000 kilometers, the additional engineering rights shall be equally divided between English, French, and American groups, and that if additional construction makes the total exceed 3,000 kilometers, all such additional engineering rights above 3,000 kilometers shall be equally divided between the four groups.

File No. 5315/926.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 19, 1910.

Mr. Knox says that the proposed terms as reported in Mr. Reid's telegram of May 18 are acceptable to this Government if the other Governments agree. Adds that the New York group also concurs. Directs that telegram of May 18 and this reply be repeated to Paris and Berlin.

File No. 5315/927.

Ambassador Hill to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, May 20, 1910.

Mr. Hill reports that the foreign office, in reply to question on Hukuang loan, replies as follows:

Germany appoints the engineer for the first 800 kilometers.

The United States of America appoints the engineer for the next 400 kilometers.

England and France appoint the engineer for 600 kilometers apiece of the remaining 1,200 kilometers of the Hankow-Szechuen line.

United States appoints further a subengineer for the last 200 kilometers of the 800 kilometers allotted Germany.

The Imperial Government declares its assent to this arrangement of the question.

File No. 5315/932.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris [received May 24, 1910].

Mr. Bacon reports that the Hukuang loan agreement was signed to-day by all four groups.

File No. 5315/947.

Ambassador Reid to the Secretary of State.

No. 1291.]

AMERICAN EMBASSY,
London, May 25, 1910.

SIR: With reference to your telegraphic instruction of April 27 [telegram of Apr. 27, 1 p. m., repeated from embassy at Paris] and to my cable dispatch of the 18th instant, relative to the division of engineering rights on the Hankow-Szechuen Railway, I have the honor to inclose herewith copy of my note to the foreign office, dated May 16, stating that the Government of the United States accept 400 kilometers chief engineering rights on the extension to Ch'eng-tu and 200 kilometers subengineering rights with Germany on the Hupeh section, together with the foreign office reply, dated May 21, informing me that His Majesty's Government have learned with great pleasure of the decision come to by the United States Government.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, May 16, 1910.

SIR: Referring to your note of the 11th of April relative to the division of engineering rights on the Hukuang Railway, I have the honor to inform you, under instructions from my Government, that while dissenting from the principle of equal division of the Hankow-Szechuen line, the United States Government is disposed to accept 400 kilometers chief engineering rights on the extension to Ch'eng-tu and 200 kilometers subengineering rights with Germany on the Hupeh section, provided such acceptance will close the negotiations.

As will be readily observed, this proposal, while not a formal statement of my Government's position, is in effect in accord with the views of His Majesty's Government. It would seem, therefore, that only the acquiescence of His Majesty's Government remains to bring about agreement between all the interested groups, an agreement which, as you state, would appear all the more urgent on account of recent occurrences in the Yangtze Valley.

I have, etc.,

WHITELAW REID.

[Inclosure 2.]

The Minister for Foreign Affairs to Ambassador Reid.

No. 17548/10.

FOREIGN OFFICE,
London, May 21, 1910.

YOUR EXCELLENCY: I have received your excellency's note of the 16th instant, stating that the United States Government are disposed to accept 400 kilometers

chief engineering rights on the extension of the Hankow-Ichang line to Ch'eng-tu and 200 kilometers subengineering rights on the Hupeh (German) section, provided such acceptance will close the negotiations.

His Majesty's Government have learned with great pleasure of the decision come to by the United States Government. They understand that a meeting of the four groups concerned is to be held in Paris on Monday next, May 23, for the purpose of confirming the arrangement now arrived at.

I have, etc.

(For the Secretary of State):
F. A. CAMPBELL.

File No. 5315/948.

Ambassador Bacon to the Secretary of State.

No. 161.]

AMERICAN EMBASSY,
Paris, May 27, 1910.

SIR: Referring to my cable of the 25th instant regarding the Hukuang loan, I have the honor to send herewith copies of the documents incident to the settlement of this matter between the banking groups, viz:

1. Memorandum of agreement between the bankers.
2. Supplementary loan agreement.
3. Minutes of the meeting May 23.
4. Minutes of committee meeting May 23.
5. Minutes of meeting May 24.

I have, etc.,

ROBERT BACON.

[Inclosure 1.]

HANKOW-CANTON AND HANKOW-CH'ENG-TU RAILWAY LOAN NEGOTIATIONS.

Memorandum of terms of agreement come to at a meeting at the Banque de l'Indo-Chine, Paris, on the 23d day of May, 1910.

Parties:

The British and Chinese Corporation (Ltd.), Chinese Central Railways (Ltd.), representing the British group.

The Deutsch-Asiatische Bank, representing the British group.

The Banque de l'Indo-Chine, representing the French group.

Morgan, Greenfell & Co., representing the American group.

1. The British, German, French, and American groups agree to enter into an agreement with the Chinese Government for a loan of £6,000,000 and any supplementary loans to be issued in connection therewith for the above railways on the basis of the two draft agreements approved by the parties hereto and initialed by them, being the draft original loan agreement, with accompanying dispatch and a draft supplemental loan agreement.

2. This loan to be divided equally between the four groups, and to be issued simultaneously.

3. All orders for materials to be divided as far as possible equally between the four groups.

3a. The American group shall share equally in the commissions on the purchase of materials, plant, and goods allowed by the terms of article 18 of the original loan agreement.

4. In regard to the appointment of chief engineers and subengineers for the lines contemplated by the original loan agreement it is agreed that the chief engineer for the Hankow-Canton Railway is to be appointed by the British and Chinese Corporation (Ltd.); that the chief engineer for the Ichang-Hsiangyang-Kuangshui line and the Ichang-Hanyang line, to the length of about 800 kilometers, is to be appointed by the German group, which is to provide for the appointment by the American group of a subengineer for a section of these lines to the length of about 200 kilometers. With regard to the proposed extension of the line from Ichang or Hsiangyang to Ch'eng-tu, which is estimated to be 1,600 kilometers in length, the chief engineer for

the first 400 kilometers is to be appointed by the American group; the chief engineer for the next 600 kilometers is to be appointed by the British group, and the chief engineer for the remaining 600 kilometers is to be appointed by the French group. If the extension of the line above referred to should be less than 1,600 kilometers in length, then the above-mentioned lengths of 400, 600, and 600 kilometers shall abate proportionately. If the extension of the line above referred to should exceed in length 1,600 kilometers, then the appointment of chief engineers of the excess between 1,600 kilometers and 2,200 kilometers shall be apportioned equally between the American, British, and French groups. If such extension should exceed in length 2,200 kilometers, then the appointment of chief engineers of the surplus over 2,200 kilometers shall be divided as nearly as possible equally among the four groups.

5. Each of the groups to apply to their respective bourses for the internationalization of the above loans.

6. The stamp duties on the bonds to be pooled and divided equally between the four groups, but this is not to be treated as a precedent for future loans. All other expenses of issue to be borne by the respective groups.

7. The preliminary expenses incurred by the four groups prior to the signing of this agreement shall be shared by the four groups upon an equitable basis.

For the British group:

CARL MEYER.

C. S. ADDIS.

G. JAMIESON.

FR. URBIG.

E. REHDEES.

For the German group:

For the French group:

J. CAILLAUX.

ST. SIMON.

ULLMANN.

CASENAVE.

For the American group:

E. C. GRENFELL.

H. P. DAVISON.

MAX WARBURG.

H. H. HARJES.

WILLARD STRAIGHT.

[Inclosure 2.]

This agreement made between his excellency on behalf of the Imperial Chinese Government of the one part, and the Hongkong and Shanghai Banking Corporation, the Deutsch-Asiatische Bank, the Banque de l'Indo-Chine, and Messrs. J. P. Morgan & Co., Messrs. Kuhn, Loeb & Co., the First National Bank, and the National City Bank, all of New York, constituting the American group, hereinafter called the "banks," of the other part, witnesseth as follows:

Whereas an agreement initialed on the 6th of June, 1909, between the Imperial Chinese Government and the Hongkong and Shanghai Banking Corporation, the Deutsch-Asiatische Bank, and the Banque de l'Indo-Chine, copy of which is attached hereto and made part hereof, hereinafter referred to as the original loan agreement, authorizes these banks to issue a 5 per cent gold loan for the sum of £500,000, to be called the "Imperial Chinese Government 5 per cent Hukuang Railways loan of 1909," it is now agreed by and between the Imperial Chinese Government and the banks, as follows:

1. The amount of the said loan shall be increased to £6,000,000, of which the sum of £3,000,000 shall be allotted to the Hupeh section of the Szechuen-Hankow line.

2. The American group shall have a participation of one-quarter of the whole loan, with corresponding banking privileges and advantages. It is further understood that American materials shall be entitled to the same privileges and preferences as are reserved in article 18 of the original loan agreement to British, French, and German materials, plant, and goods.

3. It is understood that the articles of the original loan agreement shall be affected by the terms of the preceding clause in the following manner:

In articles 1, 3, 5, 6, 7, 8, 9, 10, 12, 13, 16, 20, 21, the words "the banks," wherever they occur, shall be understood to include the "American group" and / or its agents or nominees in China or elsewhere.

In articles 10 and 12 the words "Berlin, London, or Paris," where reference is made to the Chinese minister, shall be understood to include "Washington," and where reference is made to the banks, shall be understood to include "New York."

In articles 7 and 13 the word "Europe" shall be understood to mean "Europe and America," and in articles 13 and 17, and in paragraph 4 of the letter covering the work-

ing regulations, the word "Europeans" shall be understood to mean "Europeans and / or Americans."

In article 14, wherever "Berlin, London, Paris" are referred to, such reference shall be understood to include "New York," and wherever the "Hongkong and Shanghai Banking Corporation, the Deutsche-Asiatische Bank, and the Banque de l'Indo-Chine" are referred to collectively either by name or as the "the banks," such reference shall be understood to include "the American group in New York or such banks in China as from time to time shall be designated by the American group, the International Banking Corporation being now so designated."

With regard to article 18, such modifications or extensions of the provisions respecting the appointment of purchasing agents for the two lines as may be necessary to secure equal consideration for British, German, French, and American materials, and equal facilities for the receipt of tenders in the markets of the four countries, shall be made the subject of an equitable arrangement between the director general and the four banks, and the words "British, French, and German," wherever they occur in said article 18 shall be understood to mean "British, French, German, and American."

In article 22 the words "the American group" are understood after the words "the Banque de l'Indo-Chine."

In article 23 the words "the American group" are understood after the words "the Banque de l'Indo-Chine," and the words "German, British, or French Company" are understood to mean "German, British, French, or American Company," etc.

The provisions of the original loan agreement in regard to supplementary and future loans, contained in articles 15 and 19 thereof, shall remain unaffected by this present agreement, except that the American right to one-quarter participation in these supplementary and future loans is hereby recognized.

4. The imperial edict sanctioning the loan in accordance with the provisions of the original agreement as interpreted by this present agreement will be officially communicated to the minister of Great Britain, France, Germany, and the United States of America, in Peking by the Wai-wu Pu.

Eight sets of this agreement are executed in English and Chinese, four sets to be retained by the Imperial Chinese Government, and one set by each of the contracting banks and/or groups. In the event of any doubt arising regarding the interpretation of the contract the English text shall rule.

Signed at Peking, etc.

[Inclosure 4.]

FRENCH, BRITISH, GERMAN, AND AMERICAN GROUPS.

Minutes of a meeting held at the Banque de l'Indo-Chine on 23d May, 1910, of the committee appointed at the meeting of the four groups held that day.

Present:

Mr. F. Urbig, in the chair.

Mr. M. Casenave.

Mr. G. Jamieson.

Mr. W. D. Straight.

The following resolutions were passed:

1. *Preliminary expenses.*—That to carry out and give effect to clause 7 of the agreement between the four groups drafted at the meeting of the groups held that day, the American group pay to the French, British, and German groups, respectively, the sum of £1,500, being 1 per 1,000 on the share of the loan allotted to the American group.

2. *Purchasing arrangements.*—That the existing arrangements of article 18 of the original loan agreement be allowed to stand, provided that the two purchasing agents give to the French and American groups a letter in the following terms, and provided, moreover, that said purchasing agents shall be bound to report as far as possible to any group requesting such information regarding the purchase of materials under the instructions of the director general in accordance with the provisions of the original loan agreement with accompanying dispatch and the supplemental loan agreement:

"We beg to inform you that we have been appointed purchasing agents for Hankow-Canton, Hankow-Szechuen Railways, in accordance with article 18 of the Hukuang loan agreement initialed on the 6th June, 1909.

"In view of the terms of said loan agreement with accompanying dispatch and the agreement supplementary thereto providing for the admission to participation of the American group and securing equal consideration for British, German, French, and

American materials and equal facilities for the receipt of tenders in the markets of the four countries, we beg to state that we will take all steps necessary to assure the above-mentioned consideration for French-American materials and make all proper provision for the receipt on an absolute basis of equality of tenders from British, German, French, and American manufacturers."

3. *Commission on materials.*—As regards commission on materials it was resolved that one-fifth be retained by purchasing agents to cover expenses; that the balance be divisible:

On Hankow-Canton: One-fourth each to the British and Chinese Corporation (Ltd.), the French group, the German group, and the American group.

On Hankow-Szechuen: Two-fourths to Chinese Central Railways, (Ltd.), one-fourth to the German group, and one-fourth to the American group.

4. *Rotation of purchasing agents.*—It was also resolved that upon any new loan being negotiated for the purposes of the extension referred to in article 4 of the agreement of the 23d May, 1910, the group which is entitled to the appointment of chief engineer shall be entitled to nominate the purchasing agent.

(Signed)	F. URBIG.
(Signed)	G. JAMIESON.
(Signed)	M. CASENAVE.
(Signed)	W. D. STRAIGHT.

File No. 5315/980.

Ambassador Hill to the Secretary of State.

No. 716.]

AMERICAN EMBASSY,
Berlin, June 3, 1910.

SIR: I have the honor to inclose herewith a copy of a memorandum addressed to the Imperial German Foreign Office on May 17, relating to the division of engineering rights in the Hankow-Szechuen Railway line, with the reply of the Imperial Government, dated May 19, and also a copy of my note to the Imperial Secretary of State for Foreign Affairs of May 24, containing the ancillary proposition of the British Foreign Office which had been accepted by the Government of the United States, together with the reply of the Imperial Secretary of State for Foreign Affairs, dated May 28.

From this correspondence it is settled that—

1. Germany appoints the engineer for the first 800 kilometers.
2. The United States of America appoints the engineer for the next 400 kilometers.

3. England and France appoint the engineer for 600 kilometers apiece of the remaining 1,200 kilometers of the Hankow-Szechuen line. The United States appoint, further, a subengineer for the last 200 kilometers of the 800 kilometers allotted Germany.

It is also agreed by the Imperial Foreign Office that if any additional mileage is constructed above the 2,400 kilometers, making a total not to exceed 3,000 kilometers, the additional engineering rights shall be equally divided between the English, French, and American groups; and, furthermore, that if additional construction should make the total exceed 3,000 kilometers, all such additional engineering rights above 3,000 kilometers shall be equally divided between the four groups.

It therefore appears that there is entire agreement between the Government of the United States and the Imperial German Government on all the points included in the correspondence.

I have, etc.,

DAVID J. HILL.

[Inclosure 1.]

Memorandum to the Imperial German Foreign Office.

F. O. No. 742.

AMERICAN EMBASSY,
Berlin, May 17, 1910.

The American ambassador is instructed by his Government to inform the Imperial German Foreign Office that inasmuch as the French and British financial groups interested in the Hukuang loan seem now to have reached an understanding on the basis of an equal division of engineering rights in the Hankow-Szechuen line, the French Government accepting a settlement on the basis of a potential 600 kilometers engineering rights on the extension, the United States, while dissenting from the principle of such equal division of the Szechuen line alone, is disposed to accept 400 kilometers chief engineering rights on the extension, and 200 kilometers subengineering rights with Germany on the Hupeh section, provided that this arrangement will close negotiations.

An expression of the attitude of the Imperial Government is desired.

[Inclosure 2—Translation.]

*Memorandum from the Imperial German Foreign Office.*FOREIGN OFFICE,
Berlin, May 19, 1910.

The Imperial Government has perceived with interest from the memorandum of the embassy of the United States of America, dated May 17, 1910 (F. O. No. 742), that the question of the engineers for the Hankow-Szechuen Railway line is to be settled in the following manner:

1. Germany appoints the engineer for the first 800 kilometers.
2. The United States of America appoints the engineer for the next 400 kilometers.
3. England and France appoint the engineer for 600 kilometers apiece of the remaining 1,200 kilometers of the Hankow-Szechuen line. The United States appoint, further, a subengineer for the last 200 kilometers of the 800 kilometers allotted Germany.

The Imperial Government declares its assent to this arrangement of the question.

[Inclosure 3.]

Ambassador Hill to the Minister for Foreign Affairs.

F. O. No. 756.

AMERICAN EMBASSY,
Berlin, May 24, 1910.

EXCELLENCY: Following the memorandum which I had the honor to submit for your excellency's consideration on the 17th instant touching the subject of the Hukuang loan, I am now instructed by my Government to invite the Imperial Government's attention to a further development of the question.

While it is now understood, since the receipt of your excellency's memorandum of the 19th instant, that the various groups are in accord as to the settlement of this loan, the British Foreign Office submits an ancillary proposition, which it states is now put forward and generally approved by the bankers, to the effect that if any additional mileage is constructed above the 2,400 kilometers, making a total not to exceed 3,000 kilometers, the additional engineering rights shall be equally divided between the English, French, and American groups; and, furthermore, that if additional construction should make the total exceed 3,000 kilometers, all such additional engineering rights above 3,000 kilometers shall be equally divided between the four groups.

I am further instructed to state that the terms proposed are acceptable to my Government, and to ask for an expression of the position of the Imperial Government in the matter.

I avail, etc.,

DAVID J. HILL.

[Inclosure 4—Translation.]

*Minister for Foreign Affairs to Ambassador Hill.*FOREIGN OFFICE,
Berlin, May 28, 1910.

I have the honor to acknowledge with sincere thanks the receipt of your excellency's note of May 24, 1910 (F. O. No. 756). I have noted with interest therefrom that the Government of the United States of America agrees to the new proposal of the British Foreign Office for the settlement of the Hukuang Railway question already approved by the banking groups. It affords me satisfaction to be able to inform your excellency that the Imperial Government takes the same position as your Government.

At the same time I avail, etc.,

SCHOEN.

File No. 5315/981.

Ambassador Reid to the Secretary of State.

No. 1310.]

AMERICAN EMBASSY,
London, June 8, 1910.

SIR: With reference to my cable of the 24th ultimo relative to the signing of the Hukuang loan by the representatives of the groups of the four powers in Paris, I have the honor to inclose herewith copy of a note from the foreign office dated June 7, which recites the terms of the agreement in question.

The British Government approves the arrangement come to and, subject to the concurrence of the three other Governments concerned, consider that the Chinese Government should now be formally requested without delay to complete the loan agreement of June 6, 1909, already initialed by them, as well as the subsequent supplementary agreements entered into with a view to the inclusion of the American group.

Sir Edward Grey suggests that the representatives of the four powers at Peking should be instructed to address an identic note to the Wai-wu Pu on the lines indicated, and expresses himself as of the opinion that no time should be lost in sending out the instructions to the representatives at Peking.

The substance of the note in question was cabled to the department to-day.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, June 7, 1910.

YOUR EXCELLENCY: With reference to my note of the 21st ultimo respecting the Hukuang loan, as your excellency is already aware the agreement was signed at Paris on the 24th ultimo by the representatives of the British, American, French, and German groups on the following basis:

1. Finance and material to be equally divided.
 2. British group to retain full engineering rights on Hankow-Canton line.
- Hankow-Szechuen line to be divided equally between the four groups in the following order:

Germans, 800 kilometers chief engineering rights, of which 200 kilometers sub-engineering rights are conceded to the Americans; Americans, 400 kilometers chief engineering rights, plus 200 kilometers subengineering rights as above; British, 600 kilometers; and French, 600 kilometers—French and British groups having exchanged sections.

3. Purchasing agents will follow chief engineers as regards nationality.

4. American group agrees to accept one-fourth of whole loan in lieu of former claim to half of Szechuen line.

As regards possible extension beyond Ch'eng-tu, any addition up to 600 kilometers in respect of engineering rights to be equally divided between American, British, and French groups, and any further extension to be divided equally between all four groups. I have now the honor to state that His Majesty's Government approve of this arrangement, and, subject to the concurrence of the three other Governments concerned, they consider that the Chinese Government should be formally requested without delay to complete the loan agreement of June 6, 1909, already initialed by them, as well as the subsequent supplemental agreements come to with a view to the inclusion of the American group in the former tripartite arrangement—a step which, it might be pointed out, is in accordance with the express wishes of the Chinese Government.

In instructing the representatives of the four powers at Peking to address an identic note to the Wai-wu Pu on the lines above indicated, I would suggest that the latter should be reminded of the promise given by Prince Ching to the British and American representatives in October, 1903, to the effect that should China desire to build a line from Hankow to Szechuen, and should Chinese capital be found insufficient, she would obtain the necessary foreign capital from Great Britain and the United States. It should at the same time be pointed out to the Wai-wu Pu that in accepting the present loan agreement this undertaking must henceforth be held to extend to France and Germany, as well as to the two countries to whom the promise was originally made.

I trust that the United States Government will see their way to ratifying the arrangements arrived at. It would seem desirable that no time should be lost in sending out instructions to the four representatives at Peking.

A similar note will be addressed to the French ambassador and German chargé d'affaires in London.

F. A. CAMPBELL.

Ambassador Reid to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, June 8, 1910.

Communicates purport of note of the 7th instant from the foreign office.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 21, 1910.

Mr. Knox refers to the contents of the British note as reported by the above telegram and states that this Government approves the settlement of the Hukuang loan agreement reached at Paris May 23–24 as reported by the American Embassy there and by the American group. Mr. Knox says that the American minister at Peking will be instructed to present to the Wai-wu Pu a formal request in the sense indicated in the above telegram as soon as the department is informed that the other Governments also agree.

The Secretary of State to Minister Calhoun.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 28, 1910.

Mr. Knox states that this Government approves the settlement of the Hukuang loan agreement reached at Paris May 23-24, as reported by the American embassy there and by the American group. He says that Mr. Calhoun may join with his British, French, and German colleagues in an identic note formally requesting the Chinese Government without delay to complete loan agreement of June 6, 1909, already initialed by them, as well as subsequent supplemental agreements come to with a view of inclusion of American group, a step which is in accordance with the expressed wishes of the Chinese Government; and that he may remind the foreign office of the promise given by Prince Ching to British and American representatives in October, 1903, and point out that in accepting the present loan agreement this undertaking must henceforth be held to extend to France and Germany as well as to the two countries to whom promise was originally made.

Ambassador Reid to the Secretary of State.

No. 1331.]

AMERICAN EMBASSY,
London, June 29, 1910.

SIR: With reference to my 1330² of this date I have the honor to inclose herewith copy of the foreign office reply, dated the 25th instant, informing me that the French and German representatives in Peking have already been instructed by their respective Governments to cooperate with His Majesty's chargé d'affaires in approaching the Chinese Government in the matter of the Hukuang loan, together with a copy of my note to the foreign office of to-day's date, which was based upon your cable of June 28, 11 a. m., containing your instructions to the American minister in Peking.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

The Minister for Foreign Affairs to Ambassador Reid.

No. 22805/10.

FOREIGN OFFICE, June 25, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 24th instant, in which you are good enough to inform me that the United States Government accept the arrangement arrived at in Paris last month in the matter of the Hukuang loan, and that the United States minister at Peking will be instructed to join his French, German, and British colleagues in approaching the Chinese Government on the subject as soon as the Department of State has been informed that the other Governments also agree to this course.

¹ Quoted to embassy at London.² Not printed.

I beg leave to state that the French and German Governments have notified to His Majesty's Government their assent to the agreement in question, and I understand from Mr. Max Müller, His Majesty's chargé d'affaires at Peking, that instructions have already reached his French and German colleagues to cooperate with him in this matter.

I have, etc.,

(For the Secretary of State):
F. A. CAMPBELL.

[Inclosure 2.]

Ambassador Reid to the Minister of Foreign Affairs.

AMERICAN EMBASSY,
London, June 29, 1910.

SIR: I have the honor to acknowledge the receipt of your note dated the 25th instant, in which you are so good as to inform me that the French and German Governments have notified to His Majesty's Government their assent to the agreement arrived at in Paris last month in the matter of the Hukuang loan, and that the French and German representatives in Peking have already been instructed by their respective Governments to cooperate with His Majesty's chargé d'affaires in approaching the Chinese Government on the subject.

I duly communicated the substance of your note under acknowledgment to my Government, and I am now in a position to inform you that on the 28th instant the American minister in Peking was instructed to join with his British, French, and German colleagues in an identic note formally requesting the Chinese Government without delay to complete the loan agreement of June 6, 1909, already initiated by them, as well as the supplemental agreements come to with a view to the inclusion of the American group, a step which was in accord with the expressed wishes of the Chinese Government.

The American minister was also instructed to remind the Wai-wu Pu of the promise given by Prince Ching to the British and American representatives in October, 1903, and to point out that in accepting the present loan agreement this undertaking must henceforth be held to extend to France and Germany as well as to the two Governments to whom the promise was originally made.

I have, etc.,

WHITELAW REID.

File No. 893.772/1054.

Minister Calhoun to the Secretary of State.

AMERICAN LEGATION,
Peking, August 3, 1910.

No. 59.]

SIR: Having reference to the department's telegram of June 28, and to the legation's telegrams of July 9 and 14,¹ in reply thereto, all relating to the Hukuang loan agreement, I have the honor to transmit herewith copy of the identic note of July 13 presented to the Wai-wu-Pu by the English, German, French, and American legations, and also a copy of the note presented on the same date by the English and American legations, the two notes relating to the afore-said agreement.

I have, etc.,

W. J. CALHOUN.

[Inclosure 1.]

Minister Calhoun to the Prince of Ch'ing.

No. 18.]

AMERICAN LEGATION,
Peking, July 13, 1910.

YOUR IMPERIAL HIGHNESS: On the 6th of June, 1909, the representatives of the British, French, and German banks concluded an agreement for a loan for the con-

¹ Not printed.

struction of the Hupei-Hunan section of the Hankow-Canton Railway and of the Hupei section of the Hankow-Szechuan Railway with his excellency the grand secretary, Chang Chih-Tung, duly invested by imperial edict with full powers to act on behalf of the Imperial Chinese Government. The text of this agreement was initiated by the contracting parties as final and binding, subject to sanction by imperial edict. The banks were at the same time informed that the necessary memorial would be prepared without delay and that the imperial sanction might be looked for in 10 days.

While awaiting the communication of the imperial sanction, the British, French, and German banks were informed that the American Government had reminded the Imperial Chinese Government of prior engagements constituting a claim to participation in the loan, and the banks were requested by the Wai-wu Pu to arrange for the admission to the agreement of an American group. Subsequent negotiations between the British, French, and German banks and the representative of the American group with the cooperation and approval of the Imperial Chinese Government, resulted in a supplementary agreement providing for American participation on a basis which satisfied all parties.

More than a year's time having elapsed since the conclusion of the agreement of June 6, 1909, and a reply to the legation's note of February 16, 1910, reminding your Government of their engagements under that agreement having not been received, I am now instructed to request your imperial highness to obtain imperial sanction for the aforesaid agreements to be definitely signed and put into operation for the benefit of the commercial development of China and of her foreign relations.

I would ask your highness to kindly provide me with a reply to my Government's desire, as above stated, and avail myself of this opportunity, etc.,

W. J. CALHOUN.

[Inclosure 2.]

Minister Calhoun to the Prince of Ch'ing.

No. 19.]

AMERICAN LEGATION,
Peking, July 13, 1910.

YOUR IMPERIAL HIGHNESS: With further reference to my note No. 18 of July 13, 1910, requesting the sanction of the Imperial Government to the agreement between the British, French, German, and American banks in connection with the loan for the construction of the Hupei-Hunan section of the Hankow-Canton Railway and of the Hupei section of the Hankow-Szechuan Railway, I have the honor to remind your highness of the promise made by you to the British minister and to my predecessor Mr. Conger in August, 1903, and to point out that in accepting the present loan agreement, this promise must henceforth be held to extend to France and Germany as well as to the two countries to whom it was originally made.

I avail, etc.,

W. J. CALHOUN.

File No. 893.77/1072.

Minister Calhoun to the Secretary of State.

AMERICAN LEGATION,
Peking, August 13, 1910.

SIR: With further reference to my telegraphic dispatches, August 2¹ and August 9, I have the honor to transmit to the department the translation of the note received from the foreign office requesting the legation to instruct the representative of the bank to negotiate with the board of communications for a satisfactory settlement of the Hukuang loan and of my note to Mr. Menocal to that effect.

I have, etc.,

W. J. CALHOUN.

¹ Not printed. Reported in note inclosed herewith.

[Inclosure—Translation.]

The Prince of Ch'ing to Minister Calhoun.

No. 25.]

FOREIGN OFFICE,
Peking, August 1, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note informing me that formerly an agreement was concluded between the representatives of the British, French, and German banks and the grand secretary, Chang for the raising of a loan for the construction of that portion of the Canton-Hankow Railway in the Hukuang Provinces and that part of the Hankow-Szechuan line lying within the province of Hupeh. Your excellency then referred to a supplemental agreement whereby the American group was admitted into the loan and requested that, a year and more having elapsed, an edict should be issued approving the agreements above mentioned and that they should be sealed and put into effect. At the same time your excellency requested a speedy reply.

It is to be noted that this matter was by imperial edict, in the winter of last year, after the death of the grand secretary, Chang, turned over to the board of posts and communications for satisfactory settlement, and accordingly on receipt of your excellency's note, as indicated above, my board transmitted it to the said board and I am now in receipt of their answer, which I must in turn communicate to your excellency, the reply being a request on the part of the board of posts and communications that the representatives of the banks be instructed to negotiate with the said board with a view to a satisfactory settlement of the matter.

A necessary dispatch.

(SEAL OF THE WAI-WU PU.)

[Inclosure 2.]

Minister Calhoun to the manager of the International Banking Corporation at Peking.

No. 103 (Misc.)]

AMERICAN LEGATION,
Peking, August 13, 1910.

SIR: On the 13th of July last the representatives of Great Britain, France, Germany, and America addressed a communication to H. I. H. Prince Ch'ing, requesting him to obtain imperial sanction for the loan agreement of the 6th of June, 1909, for the construction of the Hupei-Hunan section of the Hankow-Canton Railway and of the Hupei section of the Hankow-Szechuen Railway, together with the supplementary agreement providing for the participation in the loan of an American group, in order that the said agreements may be definitely signed and put into operation.

A reply to this identic note has now been received from the Wai-wu Pu, stating that after the death of the grand secretary, Chang Chih-tung, an imperial decree was issued transferring the matter of the loan to the board of communications, who were ordered to make proper arrangements. The identic note has therefore been transmitted by the Wai-wu Pu to the board of communications for their information and for them to arrange matters; and the Wai-wu Pu now requests that the representatives of the banks may be notified to negotiate the matter satisfactorily direct with the board of communications.

I have therefore to inform you that you are authorized, in conjunction with the representatives of the other banks, to place yourself in communication with the Yu-chuan-pu, for the purpose of discussion, within the terms prescribed by the identic note of the 13th of July, the formalities necessary for the definite completion of the two agreements referred to.

I am, etc.,

W. J. CALHOUN.

File No. 893.77/1085.

Minister Calhoun to the Secretary of State.

(Telegram—Paraphrase.)

AMERICAN LEGATION,
Peking, October 5, 1910.

Mr. Calhoun says at conference between bank representatives and presidents of the board of communications relative to Hukuang loan, the Chinese argued that the agreement which was initialed June 6,

1909, could not be taken as final but as a draft open to modification since it was subject to the approval of the board of finance and to the sanction of the Throne; that the state of popular feeling was such in Hunan and Hupeh that the agreement in its present form could not be concluded without risking serious local trouble; that in order to allay popular objections modifications were necessary, and that if such modifications could be arranged so as to make further objections unreasonable the board was prepared to effectively carry out the agreement. Mr. Calhoun says the presidents did not state exactly what modification they had in view, and that the bank representatives did not deem it advisable to inquire, but that latter are of the opinion that the validity of the initialed agreement should be upheld, as otherwise the negotiations would not rest on solid ground. Mr. Calhoun states that the representatives believe also that the presidents exaggerate the danger of local trouble in order to obtain easier conditions, and that China should be able to carry out original terms without risking serious disturbances, and that she should be pressed to do so by the four Governments; but, if the Governments are not inclined to take this view, the representatives suggest that the legations might invite the Chinese Government to state the desirable modifications in order to find a mutual basis for understanding, at the same time upholding inviolability of initialed agreement.

Mr. Calhoun adds that the Chinese appear much elated over the success of the 7 per cent loan for £450,000 sterling which provides for no control or direct lien and that they are now endeavoring to make purely financial loans in spite of the dangers which they may present later on for China and that competition is so keen that the attempt may succeed as the Hongkong, Shanghai, and German banks show a disposition to lower their terms as much as seems necessary in order to secure the loan. Mr. Calhoun says in view of the fact that the present complications and delay have been attributed to the action of the United States in forcing admission last year, he recommends on the part of the department a continuation of the policy of concerted action with other banks even if it does not seem that a contractual value could be properly attached to the initialed agreement. Asks instructions.

File No. 893.77/1085.

The Acting Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 7, 1910.

Mr. Adeë acknowledges legation's October 5, and informs Mr. Calhoun that the steadfast policy of the department has been to demand a just share in any contemplated loan for a Hankow-Szechuen Railway, but not to force a loan upon China; instructs Mr. Calhoun to avoid taking the lead in pressing China to ratify initialed and supplementary agreements, but to continue to act in concert with his colleagues in any representations which may be agreed upon by the Governments concerned, and at all times to use his good offices to bring about an amicable and early adjustment of the matter.

JOINT INTERNATIONAL COMMISSION FOR THE INVESTIGATION OF THE OPIUM QUESTION IN THE FAR EAST.

[Continued from Foreign Relations, 1909, p. 95.]

File No. 774/699.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1338.]

AMERICAN LEGATION,
Peking, January 10, 1910.

SIR: I have the honor to report compliance with the department's circular instructions, dated September 1, 1909,¹ entitled "International Opium Conference" and to transmit herewith a copy in translation of the reply of the Chinese Government. As I have already telegraphed to the department, China assents to the proposal of the Government of the United States to convene an opium conference to make operative the recommendations agreed upon by the International Opium Commission of 1909.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

The Prince of Ch'ing to Chargé Fletcher.

No. 658.]

FOREIGN OFFICE,
Peking, January 3, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of November 6, 1909, in which your excellency forwards the proposals of the American Government for the convening of an opium conference and asks for the views of the Chinese Government thereon.

After due consideration by my board, China gives her cordial assent to the proposal to convene an opium conference to make operative the recommendations agreed upon by the opium commission at Shanghai. The tentative program for the deliberations of the conference is, in general, admirable, but there are several points that need careful consideration.

Proposal (a) reads:

The advisability of uniform national laws and regulations to control the production, manufacture, and distribution of opium, its derivatives and preparations.

It is necessary to specify that in drawing up such regulations there shall be no interference with the sovereign rights of any nation.

Proposal (i) reads:

The advisability of uniform provisions of penal laws concerning offenses against any agreements that the powers make in regard to opium production and traffic.

This should be altered to the effect that such offenses should be punished by each country according to its own penal laws.

Proposal (l) reads:

The advisability of reciprocal right of search of vessels suspected of carrying contraband opium.

This should be altered to the effect that every nation should have the right of search of vessels found within its own territorial waters.

Proposal (n) reads:

The advisability of an international commission to be entrusted with the carrying out of any international agreements concluded.

After any agreements have been reached by the conference, the powers, having assented, will be under obligation to conform to them, but there would be no need of such a commission as that proposed.

¹ See Foreign Relations, 1909, p. 107.

The above are the views of my board, which I ask your excellency to transmit to the American Government for its consideration. When the time and place for the conference have been determined China will appoint delegates, but it will be necessary to stipulate that the Chinese delegates, while they may be styled plenipotentiaries, must obtain the formal assent of the Chinese Government before signing such conventions and regulations as may be agreed upon.

I now send this note for transmission to your excellency's Government, trusting that it will receive consideration and that a reply may be sent.

A necessary dispatch.

File No. 774/691.

Minister Beaupré to the Secretary of State.

No. 285.]

AMERICAN LEGATION,
The Hague, January 25, 1910.

SIR: I have the honor herewith to report that I am in receipt of a note from the minister for foreign affairs of the Netherlands, in which he inquires whether it is the intention of my Government that the preliminary discussion mentioned in the department's instruction of September 1, 1909, entitled "International Opium Conference," should be a discussion in writing by way of preparation for the conference or should be an oral discussion between the delegates before the official opening of the conference. I inclose a copy and translation of the minister's note and await instructions before replying thereto.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Minister Beaupré

MINISTRY OF FOREIGN AFFAIRS,
The Hague, January 18, 1910.

MR. MINISTER: Referring to your excellency's note of the 6th instant, No. 249, I take the liberty of requesting you still kindly to advise me whether, as I suppose, it is the intention of your Government that the "preliminary discussion," which, according to the inclosure in your excellency's note of September 22 last, No. 203, is to precede the conference for the suppression of the abuse of opium, should be a discussion in writing by way of preparation for the conference or an oral discussion between the delegates before the official opening of the conference.

Accept, etc.,

R. DE MAREES VAN SWINDEREN.

File No. 774/693.

Ambassador Rockhill to the Secretary of State.

AMERICAN EMBASSY,
St. Petersburg, January 29, 1910.

SIR: Referring to the department's circular instruction entitled "International Opium Conference" (Sept. 1, 1909), and to this Embassy's No. 553 of September 22 reporting the communication of the invitation to the Russian Government, I have now the honor to inclose in duplicate copies and translations of a note received to-day, in which the Russian ministry for foreign affairs approves in principle the aide-mémoire proposing the conference, but with a reservation as to the article relating to restrictions upon the cultivation of the poppy.

I have, etc.,

W. W. ROCKHILL.

[Inclosure—translation.]

The Minister for Foreign Affairs to Ambassador Rockhill.

No. 332.]

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, January 15 (28), 1910.

MR. AMBASSADOR: In reply to the note that Mr. Montgomery Schuyler was so good as to address to me, dated September 9-22, 1909, I have the honor to inform your excellency that the Imperial Government has not failed to submit to a detailed examination the proposition of the Federal Government to convoke an international conference for the purpose of elaborating, on the bases established in 1909 by the international commission at Shanghai, of general regulations obligatory for all countries, tending to control the importation, and restrain the free traffic, in opium and its derivatives. I am now able to inform you that the Imperial Government looks with favor upon the realization of this project, and intends to appoint an official delegate to take part in the work of the conference in case the powers come to an agreement on this subject.

As to the program of the conference set forth in the aide-mémoire annexed to that note, the Imperial Government, while approving in principle of its tenor, which in its opinion completely covers the question and is in entire conformity with the purpose of the conference, must henceforth insist that article (e) [should be a?] of the program can not be accepted by the Imperial Government, inasmuch as there is almost no production of opium in Russia. For that reason, the restriction and control of the cultivation of the poppy, provided for by article (e) [should be a?], would be superfluous and would oppose a serious obstacle to the development of one of the branches of Russian agriculture. The Imperial Government, moreover, expresses the hope that at the time of the discussion of the measures projected by the programme, the local conditions of each country may be taken into consideration, as was stipulated by the Shanghai Commission.

Accept, etc.,

ISWOLSKY.

File No. 774/706.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1359.]

AMERICAN LEGATION,
Peking, February 7, 1910.

SIR: Referring to Mr. Rockhill's dispatch No. 1127 of March 22, 1909,¹ regarding measures taken by the Chinese Government to suppress the use of opium I have the honor to inclose herewith a copy, in translation, of laws drawn up by the bureau of constitutional reform and approved by imperial edict on the 30th ultimo.

Legislation looking toward the suppression of the use of opium has hitherto been left largely to the discretion of the provincial authorities, but by the promulgation of the inclosed laws the Central Government apparently takes its stand for vigorous and immediate suppression of the traffic.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

Law concerning the production, sale, and consumption of opium.

[Drawn up by the bureau of constitutional reform approved by imperial edict, Jan. 30, 1910. Published in the Official Gazette, Feb. 2, 1910.]

ARTICLE I.

Anyone who plants the poppy, manufactures opium, or sells the same, in violation of the regulations, shall be punished by the fourth degree banishment for a fixed term.

¹ See Foreign Relations, 1909, p. 102.

ARTICLE II.

Anyone who manufactures, or sells articles used for the smoking of opium, shall be punished by the fifth degree banishment for a fixed term.

ARTICLE III.

Anyone who opens an opium smoking place and provides for opium smoking shall be punished by the fourth degree banishment for a fixed term.

ARTICLE IV.

Anyone who smokes opium in violation of the regulations shall be fined in a sum not less than \$20 nor more than \$500.

ARTICLE V.

Anyone who smokes opium within the Forbidden City or at the imperial cemeteries shall be punished by the first or second degree banishment for a fixed term.

ARTICLE VI.

Any official, whose duty it is to enforce the regulations, who shall knowingly permit any of the offenses enumerated above, shall be punished as having committed the same offense. If he has taken a large bribe, he shall be dealt with severely. If he has erred through carelessness merely, he will be turned over to the proper board to decide upon his punishment.

ARTICLE VII.

Anyone who has committed any of the offenses enumerated in Articles I to V shall be deprived of the right to vote and made ineligible for any honor. If he is an official, he shall be cashiered and made forever ineligible for office.

ARTICLE VIII.

Anyone who shall have been punished under this law and shall offend a second time shall have his penalty increased by one degree.

ARTICLE IX.

Anyone who shall conspire to offend against any of these articles, but not succeed in carrying his intention into effect shall be punished by penalties one or two degrees lighter than those herein provided for the offenses. If anyone shall voluntarily give up his evil practices his punishment will be lightened by two or three degrees or he may be pardoned.

ARTICLE X.

All the penalties of banishment will be committed into terms in the industrial prisons as below:

First-degree banishment for a fixed term will mean from 10 to 15 years.

Second-degree banishment for a fixed term will be from 5 to 10 years.

Third-degree banishment for a fixed term will be from 3 to 5 years.

Fourth-degree banishment for a fixed term will be from 1 to 3 years.

Fifth-degree banishment for a fixed term will be from 2 months to 1 year.

ARTICLE XI.

All those condemned to banishment with penalty increased or lightened will have the increase or diminution of the penalty in the order given above:

First-degree banishment with an increase of penalty may be made 20 years and fifth-degree banishment may be lightened to imprisonment in a police station. When the penalty to be increased or lightened is a fine, one degree shall mean one-fourth of the fine.

ARTICLE XII.

All fines shall be payable within one month of the time of giving judgment. After the limit of time the fine shall be reckoned at the rate of half a dollar per day of confinement and the penalty charged to banishment, which may not exceed three years.

If the period of banishment is reckoned at less than two months, the time may be served in the police station.

When the penalty has been changed to banishment or detention at the police station, if during the period the fine is paid the number of days served may be reckoned as a deduction on the fine.

[NOTE.—The word translated “banishment” in the above law is “t’u,” which means banishment to some place within the same Province.]

File No. 774/694.

The Italian Ambassador to the Secretary of State.

[Translation.]

No. 377.]

ITALIAN EMBASSY,
Washington, February 12, 1910.

MR. SECRETARY OF STATE: The circular dated September 1, 1909, and addressed by the Department of State to the American representatives accredited to the powers which were represented at the Shanghai International Opium Conference and a copy of which was courteously communicated to this embassy by the department in its note of September 21 last was forwarded to the King's Government at Rome where, as I am now informed by the royal ministry of foreign affairs, it has received the careful consideration of the Kingdom's authorities concerned. The King's Government, desiring as it does, to continue cooperating in the humanitarian purpose of the commission and future conference (to which purposes to appoint its delegates immediately upon knowing exactly when and where the meeting will take place) deems it its duty to make some reservation with regard to the proposition marked “N” relative to the creation of an international commission charged with the duty of enforcing the international agreements that may be effected as to opium production and trade. It can not be supposed, in fact, that the international commission will be invested in this case with executive powers, such as would amount to meddling in any way with the internal administration of the several participant States.

Further and foremost the King's Government should be glad if the next conference would also give its attention to the Indian hemp and hashish trade.

The hashish question is, to our mind, just as weighty as the opium problem. The Italian Government would therefore deem it advantageous to have it considered at the same time and place as the other, because of the great and obvious analogy in the subject matter which would make it possible to apply to the hashish trade without any modifications of most of the provisions proposed in the case of the opium international trade. An international settlement of the hashish question is of special interest to Italy, not because it is a producer or consumer of the product, but because rather unscrupulous speculators, at home and abroad, have chosen to store and collect hashish on Italian territory for the ultimate purpose of smuggling into the countries where it is prohibited.

Now in the absence of an international agreement for the regulation of that trade it would be practically impossible to uproot that speculation as the King's Government would wish to do without subjecting in the ports of the Kingdom national and foreign ships to annoyances and restrictions which would not be reproduced in foreign ports.

While inviting your excellency's attention to this new phase of the subject which might be advantageously submitted to the next conference, I embrace this opportunity, etc.,

MAYOR.

File No. 774/691.

The Secretary of State to Minister Beaupré.

No. 110.]

DEPARTMENT OF STATE,
Washington, February 16, 1910.

SIR: The department acknowledges the receipt of your No. 285, of the 25th ultimo, together with a copy of a note from the minister of foreign affairs of the Netherlands, in which he inquires whether or not the "preliminary discussion" invited by this Government on the tentative program of the approaching opium conference suggested in the department's circular of September 1 last, should be "a discussion in writing by way of preparation for the conference or an oral discussion between the delegates before the official opening of the conference."

You will inform the minister of foreign affairs that the tentative program mentioned was offered as a suggestion that might properly serve as a basis at least for a formal expression of opinion in writing not only on the suggested program itself, but on the other aspects of the opium problem which might seem of peculiar importance to the Netherlands Government. Such procedure will enable this Government to prepare in advance a definitive program, based on the suggestions and views of the Netherlands and other participating Governments, to be submitted to them for a final exchange of views before the conference meets. It would seem to this Government that such a formal expression of opinion would facilitate the work of the conference and materially shorten its labors without conflicting with an oral discussion between the delegates before the official opening of the conference should such a discussion appear to be advisable.

I am, etc.,

P. C. KNOX.

File No. 774/693a.

The Secretary of State to Ambassador Rockhill.

No. 46.]

DEPARTMENT OF STATE,
Washington, February 17, 1910.

SIR: The department acknowledges the receipt of your unnumbered dispatch of the 29th ultimo, accompanied by duplicate copies and translations of a note of the preceding day's date, in which the ministry for foreign affairs approved in principle the aide-mémoire proposing an international opium conference, but with a reservation as to the article relating to restrictions upon the cultivation of the poppy.

You will convey to the minister for foreign affairs this Government's appreciation of the favor with which the Imperial Government looks upon the realization of the projected international opium conference, and of its approbation in principle of the tenor of the tenta-

tive program contained in the department's circular instruction of September 1, 1909.

The department notes that the Imperial Government, in accepting the tentative program, does so with the distinct reservation that it "must henceforth insist that article (e) [should be (f)] of the program can not be accepted by the Imperial Government, inasmuch as there is almost no production of opium in Russia. For that reason the restriction and control of the cultivation of the poppy provided by article (e) [should be (f)] would be superfluous, and would oppose a serious obstacle to the development of one of the branches of Russian agriculture."

In regard to the hope expressed by the Imperial Government that at the time of the discussion of measures in the projected conference the local conditions of each country may be taken into consideration you will inform the minister for foreign affairs that this Government has from the first most carefully recognized and will continue to recognize the varying features of the entire opium question as they appear in the territories of the interested countries.

You are informed, to be used at your discretion, that China, Portugal, and the Netherlands have accepted the American proposals, and that the British foreign office is in consultation with the India office in regard to them. Further, that the Netherlands Government, in accepting this Government's proposals, expressed a desire that the proposed conference be held at The Hague, and that when notified by this Government as to the adhering powers the Government of the Queen will issue the necessary invitations to the conference.

I am, etc.,

HUNTINGTON WILSON.

File No. 774/703.

Chargé Fletcher to the Secretary of State.

No. 1367.]

AMERICAN LEGATION,
Peking, February 19, 1910.

SIR: I have the honor to inclose copy in translation of a note received from the Wai-wu Pu, dated December 10 last, on the subject of the restrictions of the importation of cocaine.

The Chinese Government desires to apply to the importation of cocaine restrictions exactly similar to those now in force with respect to morphine.

This matter has been discussed by the diplomatic corps, and while it seemed to be the consensus of opinion that this request of the Chinese Government should be complied with, it was thought necessary to have the express approval of the Governments concerned, which all the ministers have promised to ask.

I therefore have the honor to request the department's authority to consent to the application by China of the same prohibition and restrictions to the importation of cocaine as are now in force with respect to morphine. (See dispatches numbers 993 of Sept. 2, 1908,¹ 1027 of Oct. 15, 1908,² and 1078 of Jan. 5, 1909.³

I have, etc.,

HENRY P. FLETCHER.

¹ See Foreign Relations, 1908, pp. 100, 103; 1909, p. 95..

[Inclosure—Translation.]

The Prince of Ching to Chargé Fletcher.

No. 650.]

FOREIGN OFFICE,
Peking, December 10, 1909.

YOUR EXCELLENCY: The Min-Che viceroy has made the following representation: "The Hsing-Thuan-Yung Taotai reports that having been informed that Western countries now have a drug called 'cocaine' which will satisfy the opium craving, and which is even more injurious than opium, and that considerable quantities of this drug have been imported into Amoy, he inquired of the commissioner of customs about the matter. The commissioner replied as follows:

Cocaine is made in foreign countries from the I-shih-lo tree (Brythoxylon?). It is used to deaden pain and is classified as an anesthetic. If one takes morphine he only experiences a little lassitude and there may still be a chance to save him, but if one takes this drug his limbs lose all their strength and he suffers from extreme depression. Its evil effects are greater than those of morphine. A statement has been drawn up showing the importations of cocaine during the last year.

The Taotai remarks that morphine has just been prohibited; that cocaine is a similar anesthetic; that on taking this drug the limbs of the user lose their strength and that it is administered by the hypodermic needle so that after a little time the skin and flesh of the victim suppurate and death finally ensues. Since it is worse than morphine the Taotai asks that Wai-wu Pu be requested to communicate with the ministers of the different powers in reference to prohibiting the importation of the drug. On receipt of this report from Taotai the viceroy at once ordered the bureau of foreign affairs to investigate this matter thoroughly in conjunction with the Amoy Taotai and make a report. Their report is as follows:

The commissioner of customs states that cocaine is not materially different in its effects from morphine, and that the British doctor Lien-ni has analyzed the drug and has pronounced it similar to morphine in its effects, but more injurious. Therefore it ought to be prohibited, and the regulations concerning morphia should be applied to it in order to avoid the evil effects of the poison. The viceroy now therefore requests the board of foreign affairs to take into consideration measures for the prohibition of the drug.

My board observes that since cocaine appears to be of the nature as morphine and even more injurious, it ought to be prohibited in just the same manner as morphine. We now call your excellency's attention to this matter and ask that instructions may be issued to all American merchants accordingly. Your excellency is requested to send a reply.

A necessary dispatch.

(SEAL OF THE WAI WU PU.)

File No. 774703.

Ambassador Hill to the Secretary of State.

No. 610.]

AMERICAN EMBASSY,
Berlin, February 21, 1910.

SIR: With reference to the department's circular instruction of September 1, 1909, relative to the proposed opium conference, I have the honor to inclose herewith, in duplicate, the translation of a note received to-day from the German Foreign Office, the substance of which I have to-day cabled you, stating that the German Government is glad to accept the suggestion of the United States in the matter and, in common with the other Governments of the powers who took part in the International Opium Commission in Shanghai in 1909, to send full-powered delegates to a conference in order to reach an international agreement based on the findings of the above-mentioned commission, and further, that the program submitted by the United States as the basis for a previous exchange of opinion will be taken into consideration by the German Government.

I have, etc.,

DAVID J. HILL.

[Inclosure—Translation.]

Note verbale from the Imperial German Foreign Office.

BERLIN, February 17, 1910.

The Foreign Office has the honor to inform the embassy of the United States of America, in reply to the note verbale of January 8, 1910, that the Imperial Government is willing to follow the suggestion of the United States of America and join the Governments of the powers which took part in the International Opium Commission at Shanghai in 1909 in sending commissioners with full powers to represent it at a conference for the purpose of concluding an international convention on the basis of the resolutions of the said Shanghai Opium Commission. *

The tentative program submitted by the Government of the United States of America to serve as a basis of a preliminary exchange of opinions will be subjected to an examination on the part of the Imperial Government.

File No. 774/709.

Ambassador O'Brien to the Secretary of State.

No. 1057.]

AMERICAN EMBASSY,
Tokio, February 22, 1910.

SIR: Referring to the embassy's dispatch of October 13, 1909,¹ in which Mr. Jay acknowledged the receipt of the department's circular instruction of September 1, 1909, entitled "International Opium Conference," I have the honor to inclose herewith a copy of a note from the Minister of Foreign Affairs, dated February 21, in which he states that the Japanese Government, while having no objection in principle to the holding of such an international conference, requires still further time to consider some of the points raised in the tentative programme.

I have, etc.,

T. J. O'BRIEN.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador O'Brien.

No. 10.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, February 21, 1910.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your excellency's note, F. O. No. 351, dated the 13th of October last, proposing that with a view to giving effect to the resolutions of the International Opium Conference which was lately held at Shanghai, an international conference be held at The Hague or elsewhere, composed of one or more delegates of each of the participating powers. I beg to state in reply that the Imperial Government have no objection in principle to the holding of such an international conference and sending of delegates thereto, but that many of the points raised in the tentative program suggested by your excellency's Government are under the control of several Government departments and call for most careful consideration, the Imperial Government have not only been unable to present a reply by the date proposed, but will require still further time.

I avail, etc.,

COUNT KOMURA.

¹ Not printed.

File No. 774/694.

The Secretary of State to the Italian Chargé.

No. 832.]

DEPARTMENT OF STATE,
Washington, March 2, 1910.

SIR: I have the honor to acknowledge the receipt of Baron Mayor's note of the 12th ultimo, in which he informed me that this Government's circular letter dated September 1, 1909, proposing an International Opium Conference, communicated to him by the Department of State in its note of September 21 last, was forwarded to the King's Government at Rome, where, as he was informed by the royal minister of foreign affairs, it has received the careful consideration of the Kingdom's authorities concerned, and that the King's Government, desiring as it does to continue cooperating in the humanitarian purpose of the proposed conference (to which it purposes to appoint its delegates immediately on learning exactly when and where the meeting will take place), deems it its duty to make some reservation with regard to the proposition marked (n) of the tentative program, relative to the creation of an international commission charged with the duty of enforcing any international agreement which may be effected as to opium production and trade.

Permit me to express this Government's high appreciation of the favorable action taken by the King's Government in regard to the conference, and to assure you that this Government is in entire agreement with the reservation made by His Majesty's Government in regard to the proposition marked (n) of the tentative program. As stated by Baron Mayor, it can not be supposed in fact that such an international commission, if provided for by the conference, will be invested in this case with executive powers such as would amount to meddling in any way with the internal administration of the several participant States. It is the view of this Government that such an international commission or office would be charged with no authority beyond supervising the execution of any provisions made by the forthcoming conference.

This Government is in hearty accord with the views of the King's Government in regard to the Indian hemp or hashish trade. There can be no doubt that it is at present a weighty matter, as that as the suppression of excessive opium production proceeds, there is great danger that the production and trade in Indian hemp will replace it, unless there is concurrent action against it by the interested powers. The King's Government may feel assured that any proposals made in the forthcoming conference for the placing of the production and trade in Indian hemp under regulations that may be made to apply to the production and trade in opium will receive the full sympathy and the support of this Government.

I am happy to be able to inform you that in addition to the King's Government the Governments of China, Germany, the Netherlands, Portugal, and Russia have accepted this Government's proposals for an International Opium Conference; that the Netherlands Government has expressed a desire that the proposed conference be held at The Hague, and that when this Government notifies it as to the adhering powers the Government of the Queen will issue the necessary invitations to the conference. Further, that the

British Government is considering the invitation of this Government, and that the foreign office is now in consultation with the India office in regard to the tentative program submitted in the circular letter of September 1 last.

Accept, etc.,

P. C. KNOX.

File No. 774/697.

The Secretary of State to Ambassador Hill.

No. 334.]

DEPARTMENT OF STATE,
Washington, March 2, 1910.

SIR: The department acknowledges your cablegram dated February 21,¹ in which you state that—

The German Government accepts suggestion of the American Government regarding opium conference, and will join the Governments of the powers which took part in the International Opium Conference at Shanghai in sending commissioners with full powers to conclude an international convention on the basis of the resolutions of the Shanghai commission. Tentative program of the American Government to serve as basis for preliminary exchange of opinions will be subjected to an examination on the part of the German Government.

You will express to the minister for foreign affairs this Government's appreciation of the prompt acceptance by the German Government of the department's proposal for an International Opium Conference, with full powers, to complete the work of the International Opium Commission. You are informed that the following Governments have already accepted the proposals of this Government: China, Italy, the Netherlands, Russia, and Portugal. The Netherlands Government, in accepting this Government's proposals, expressed a desire to have the conference meet at The Hague, and stated that when notified by this Government as to the adhering powers, the Government of the Queen will issue the necessary invitation for the conference.

The British Government is considering this Government's proposals and the foreign office is now in consultation with the India office in regard to the tentative program submitted in the circular letter of September 1 last.

I am, etc.,

P. C. KNOX.

File No. 774/703.

The Secretary of State to Ambassador Hill.

DEPARTMENT OF STATE,
Washington, March 8, 1910.

SIR: The department acknowledges your dispatch of the 21st ultimo, in which you inclosed in duplicate a translation of a note received on that date from the German foreign office relative to the proposed opium conference, stating that the German Government is glad to accept the suggestion of the United States in the matter of the conference, and in common with other Governments of the powers who took part in the International Opium Commission

¹ See dispatch No. 610 of February 21 from Ambassador Hill

at Shanghai, to send full-powered delegates to a conference, in order to reach an international agreement based on the findings of the above-mentioned commission, and that the program submitted by the United States as a basis for a previous exchange of opinion, will be taken into consideration by the German Government.

I am, etc.,

(For Mr. KNOX.)
HUNTINGTON WILSON.

File No. 774/699.

The Secretary of State to Chargé Fletcher.

No. 708.]

DEPARTMENT OF STATE,
Washington, March 9, 1910.

SIR: The department acknowledges your dispatch No. 1338, of the 10th of January, reporting your compliance with the department's circular instructions dated September 1, 1909, entitled "International Opium Conference," with which you transmit a copy in translation of the reply thereto of the Chinese Government.

You will express to the Wai-wu Pu the high appreciation of this Government that China gives her cordial assent to the proposal to convene an international opium conference to make operative the recommendations agreed upon by the opium commission at Shanghai. Further, you will inform the Wai-wu Pu that the reservations of the Chinese Government in regard to items (a), (i), (l), and (n) of the tentative program of the proposed conference will receive the careful consideration of this Government.

This Government notes in regard to item (a)—

the advisability of uniform national laws and regulations to control the production, manufacture, and distribution of opium, its derivatives and preparations—

that it is the view of the Chinese Government that in drawing up such regulations there shall be no interference with the sovereign rights of any nation.

In regard to item (i)—

the advisability of uniform provisions of penal laws concerning offenses against any agreements that the powers make in regard to opium production and traffic—

that it is the view of the Chinese Government that this should be altered to the effect that such offenses should be punishable by each country according to its own penal laws.

In regard to item (l)—

the advisability of reciprocal right of search of vessels suspected of carrying contraband opium—

that the Chinese Government is of the opinion that this should be altered to the effect that every nation should have the right of search of vessels found within its own territorial waters.

In regard to item (n)—

the advisability of an international commission to be intrusted with the carrying out of any international agreements concluded—

that it is the view of the Chinese Government that after any agreements have been reached by the conference, the powers having assented will be under obligation to conform to them; that therefore there will be no need of such a commission as proposed.

In drafting the definitive program of the conference for submission to the interested powers, preliminary to the formal opening of the conference, the greatest consideration will be given to the modifications suggested by the Wai-wu Pu.

You will further inform the Wai-wu Pu that Germany, Italy, the Netherlands, Portugal, and Russia have already accepted this Government's proposals for an international opium conference; that the Netherlands Government has requested that the conference be held at The Hague; and that when it is notified by this Government as to the adhering powers the Government of the Queen will issue the necessary invitations to the conference.

I am, etc.,

P. C. KNOX.

File No. 774/707.

Chargé de Billier to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Teheran, March 21, 1910.

Mr. de Billier says a delegate will be sent to the opium conference by the Government of Persia.

File No. 774/708.

The Secretary of State to Chargé Fletcher.

[Extract.]

DEPARTMENT OF STATE,
Washington, March 28, 1910.

SIR: I have to acknowledge the receipt of the legation's No. 1367, of February 19, 1910, on the subject of restricting the importation of cocaine into China and asking the approval by the United States of the application by the Chinese Government of restrictive regulations similar to those now in force with respect to morphine.

The department has read with interest the communication from the Chinese foreign office to the legation which you inclose.

You are instructed to inform the Chinese foreign office that this Government approves of the proposed measures for the prohibition, except under restrictions similar to those enforced with respect to morphine, of all importation of cocaine into China.

I am, etc.,

P. C. KNOX.

File No. 774/709.

The Acting Secretary of State to Ambassador O'Brien.

No. 416.]

DEPARTMENT OF STATE,
Washington, April 2, 1910.

SIR: The department acknowledges the receipt of your dispatch No. 1057, of February 22, 1910, in which you inclose a copy of a note from the minister for foreign affairs, dated February 21, 1910, in reply to this Government's circular invitation of September 1, 1909, wherein he states that the Imperial Government have no objection in principle to the holding of an international opium conference and sending delegates thereto; but that as many of the points raised in the tentative

program suggested by this Government are under the control of several Government departments and call for most careful consideration, the Imperial Government have not only been unable to present a reply by the date proposed in the conference letter, but will require still further time.

You will inform the minister for foreign affairs that this Government highly appreciates the acceptance in principle of an international opium conference by the Imperial Government, and that, with a full knowledge of the historical position of the Imperial Government toward the opium traffic in the Far East, this Government is grateful for the proffered assistance of the Imperial Government in the formulation of a definite program for the forthcoming conference.

You will also inform the minister for foreign affairs that the following Governments have accepted this Government's invitation to the conference: China, Germany, Italy, Netherlands, Portugal, Persia, Russia, and Siam; that the Netherlands Government has expressed a desire that the conference be held at The Hague; and that when this Government notifies it as to the adhering powers, the Government of the Queen will issue the necessary invitations. It is expected that favorable replies will be received in a short time from Austria-Hungary, France, and Turkey. The British Government has tacitly accepted the conference and has informed this Government that the foreign office is now in consultation with the India office in regard to the tentative program proposed by this Government.

I am, etc.,

HUNTINGTON WILSON.

File No. 774/722.

Ambassador Leishman to the Secretary of State.

[Extract.]

AMERICAN EMBASSY,
Rome, April 11, 1910.

No. 208.]

SIR: With reference to my dispatch No. 185, of March 18, 1910,¹ in regard to the proposed international opium conference, I have the honor to inclose herewith a copy of a note received from the Italian ministry of foreign affairs, together with a translation thereof, in which it is stated that almost contemporaneously with the receipt of Mr. Garrett's note No. 43, of October 4, 1909,¹ inviting Italy to send delegates to the conference, the Italian foreign office received a report from the Italian ambassador at Washington on the same subject.

I have, etc.,

JOHN J. LEISHMAN.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Leishman.

MINISTRY FOR FOREIGN AFFAIRS,
Rome, April 8, 1910.

MR. AMBASSADOR: Almost at the same time as your excellency's note of October 4 last, No. 43, in regard to the proposed international conference for the restriction of the opium trade, a report was received at this ministry from the royal ambassador in Washington on the same subject.

¹ Not printed.

The minister of the interior, wishing to make some reservations in regard to the proposal to create an international commission which should be charged with the duty of applying the provisions of the agreement eventually concluded in regard to opium trade and production, believed it opportune, before giving your excellency a definite reply, to have the royal ambassador in Washington make inquiries of the Washington Government.

From the report just received from the above-mentioned representative, I learn that the American Government acquiesces in the reservations made by the Royal Government, that the commission should not, in any case, have powers such as would permit it to meddle in any way with the internal affairs of the several participant States. The Federal Government has also accepted the proposal of the Italian Government to include in the program of the conference the question of the Indian hemp and hashish trade.

In view of the preceding, I have the honor to inform your excellency that the Royal Government will adhere to the conference and will in due time appoint an official representative.

Please accept, etc.,

P. DI SCALEA,
Under Secretary of State.

File No. 774/751.

Chargé Lorillard to the Secretary of State.

[Extract.]

No. 644.]

AMERICAN LEGATION,
Lisbon, May 31, 1910.

SIR: Referring to my No. 642, of the 24th instant,¹ relative to the proposed international opium conference, I have the honor to inclose herewith a copy and a translation of a note from the foreign minister, dated the 28th instant, in which he confirms his verbal statements concerning Portugal's acceptance in principle of the conference and adds that the decisions thereof will not be taken into consideration by Portugal unless they receive the unanimous vote of all the countries represented at the conference and are applicable to all countries, whether represented thereat or not.

I have, etc.,

GEORGE LORILLARD.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Chargé Lorillard.

THE FOREIGN OFFICE,
Lisbon, May 28, 1910.

In reply to the note which you were pleased to address me on the 4th instant, in which, after informing me of the nations which have already adhered to the international opium conference proposed by the Government of the United States, you inquire if the studies which the Government ordered to be made relative to the manner of regulating the commerce of that product in the Province of Macau are in a condition which would permit it to accept that conference in principle, I must say to you the following:

Portugal, in spite of being the country which in the Province of Macau has relatively the most to suffer in public revenues and in its commercial interests by the work undertaken by the United States to repress the use of that product in its evil results on humanity, can not, without disavowing its principles and going back on its traditions, help associating itself to the generous and civilizing purpose which has dictated to the United States the initiative of that task which it desires now to realize by means of a conference to which it invites the civilized nations, and thus accepts the conference in principle, which means it recognizes the convenience and necessity of its meeting, to take part in which it is already prepared by the necessary studies.

¹ Not printed.

This acceptance in principle of the conference has not exonerated the Government from the measures which it desires to use to conciliate the interests of all sorts which are at stake in such an understanding, and therefore, as I have already verbally declared to you, it desires to preserve entire liberty of opinion at the discussion there of the program and object of the work of the conference.

But whereas the lack of harmony of all countries at the meetings of the conference would mean the absence of a complete and perfect recognition to conciliate the interests similar to those of the Province of Macau, to which I have already referred, and which it is the Government's duty to guard as well as those of another nature, and also whereas these decisions may bring obligations and duties to Portugal which would still further harm those interests, if all countries directly or indirectly interested in the question do not take part in the conference and thus remain completely free of any pledge taken there, His Majesty's Government, in view of the restrictions which have been placed on the questions which are to be discussed at the conference which would prevent its delegates from making precise declarations for the defense of those interests, is obliged to insist as a preliminary and essential condition to its representation at the conference or its presence during the course of its labors, that its decisions will only be taken into consideration by it for whatever purpose provided they (the decisions) have the unanimity of the votes of all nations there represented and are applicable to all countries however interested in the question, whether represented at the conference or not.

And thus showing to you what is the view of the Government on the subject, and what is the decision taken by it, I avail myself, etc.

A. EDUARDO VILLACA.

File No. 774/766.

Ambassador Kerens to the Secretary of State.

No. 50.]

AMERICAN EMBASSY,
Vienna, July 6, 1910.

SIR: Referring to my dispatch No. 36, of the 17th ultimo,¹ relative to participation of the Austro-Hungarian Government in the Second International Opium Conference to be held at The Hague, I have now the honor to transmit herewith a copy and a translation of a personal note to me from Count Aehrenthal, minister for foreign affairs, dated the 4th instant, from which it appears that the Austro-Hungarian Government has decided finally not to participate in the said conference. I also transmit a copy and a translation of the memorandum accompanying the minister's aforesaid note, giving the reasons for the nonparticipation of his Government, but stating that it would follow with much interest the deliberations of the conference.

I have, etc.,

R. C. KERENS.

[Inclosure 1—Translation.]

The Minister for Foreign Affairs to Ambassador Kerens.

MINISTRY OF THE EXTERIOR,
Vienna, July 4, 1910.

Your excellency had the kindness a few days ago to again refer to the matter of the Imperial and Royal Austrian and the Royal Hungarian Government accepting the invitation to attend the Second International Opium Conference.

I have not failed to inform myself, according to the wish expressed by your excellency, why both Governments refused to participate in this conference, and I have the honor to transmit to your excellency the inclosed memorandum in the matter.

Your excellency will accept, etc.,

AHRENTHAL.

¹ Not printed.

[Inclosure 2—Translation.]

MEMORANDUM.

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS,
Vienna, June, 30, 1910.

The Imperial and Royal Austrian and the Royal Hungarian Government participated in the opium conference at Shanghai last year, as they wished to be present at the first conference, where the regulation of the opium traffic would be a subject of discussion and to inform themselves of the feelings of foreign States on this subject.

The monarchy had no practical interest in the questions discussed at the conference, both as the amount imported in the monarchy is very small (1,500 to 2,000 kilos of opium and about 1,000 kilos of derivatives therefrom) and as such importation is only for medicinal purposes and takes place directly between the dealers abroad and the home medicinal institutions.

As opium can only be procured by means of a physician's prescription, there is no possibility of opium being trafficked in the monarchy.

Neither of the Governments, therefore, will be present at the second opium conference, but will follow its deliberations with much interest.

File No. 774/707.

The Acting Secretary of State to Minister Russell.

No. 13.]

DEPARTMENT OF STATE,
Washington, July 7, 1910.

SIR: The department acknowledges your cablegram of March 21 last, in which you state "the Government of Persia will send a delegate to the opium convention."

You may inform the minister for foreign affairs that the Government of the United States is highly gratified at the acceptance by Persia of its invitation to the opium conference and that, aware of the large interest of the Persian Government in the production of opium, this Government will welcome any suggestions that may be made which will aid it in formulating a definitive program for the conference.

I am, etc.,

HUNTINGTON WILSON.

File No. 774/763B.

The Acting Secretary of State to Minister Beaupré.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 14, 1910.

Referring to note of November 22, 1909,¹ from the Netherlands minister for foreign affairs, accepting the proposal of the United States for an international opium conference, and suggesting The Hague as the place of meeting, Mr. Wilson says that this proposal is acceptable to the Governments interested and directs Mr. Beaupré to inquire of the minister for foreign affairs if September 15 would be a convenient date for the convening of the conference.

¹ See Foreign Relations, 1909, p. 113.

File No. 774/764.

Minister Beaupré to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
The Hague, July 19, 1910.

Mr. Beaupré acknowledges department's cablegram of July 14, and says that September 15 will be satisfactory to the Government of the Netherlands for meeting of opium conference. Mr. Beaupré adds that the minister for foreign affairs desires to be informed at once what Governments have adhered to the principle of the calling of the conference so that invitations may be issued.

File No. 774/769.

The Netherlands Chargé to the Secretary of State.

[Translation.]

No. 659.]

NETHERLANDS LEGATION,
Washington, July 23, 1910.

MR. SECRETARY OF STATE: I have the honor to advise your excellency that an international conference for the regulation of the opium trade will be held at The Hague on September 15 next.

Having been instructed by the Government of Her Majesty the Queen of the Netherlands to ask the Government of the United States to take part in that conference, I venture to have recourse, to that end, to your excellency's obliging interposition.

I embrace, etc.,

M. DE WEEDE.

File No. 774/769.

The Acting Secretary of State to the Netherlands Chargé.

No. 78.]

DEPARTMENT OF STATE,
Washington, July 29, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, by which, in accordance with instructions you have received from your Government, the Government of the United States is invited to be officially represented by delegates at an international conference for the regulation of the commerce in opium.

In reply I have the honor to say that the Government accepts with pleasure the invitation of Her Majesty's Government, and that it will at an early date communicate the names of its delegates to the international conference above mentioned

Accept, etc.,

HUNTINGTON WILSON.

File No. 511.4A 1/790.

Chargé Tarler to the Secretary of State.

No. 635.]

AMERICAN LEGATION,
Bangkok, August 1, 1910.

SIR: I have the honor to acknowledge receipt of your No. 207, dated May 11, 1910,¹ on the subject of the international opium conference, and in reply I have to say that on the same day I sent you the following telegram:

The Government of Siam accepts in principle the tentative program outlining proposals for international conference on opium question.

On the 25th of July last the Netherlands minister, Mr. Neiuwenhius, forwarded to His Siamese Majesty's foreign office the invitation to attend the conference, and it was in turn forwarded to the ministry of finance.

His Siamese Majesty's foreign minister, Prince Devawongse, is arranging to send an acceptance to the Dutch minister.

The acceptance will state that the Siamese delegates are Phya Visutr Kosa, the Siamese minister to London, and W. J. Archer, Esq., C. M. G., councillor to the Siamese legation in London.

I have, etc.,

G. CORNELL TARLER.

File No. 774/772.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, August 2, 1910.

Mr. Calhoun says he is informed by the foreign office that an invitation has been extended to China by the Netherlands Government to participate in the opium conference, and that China being unprepared has requested that the meeting be postponed until the 15th of October, which request has been complied with. Mr. Calhoun adds that China would like to know the intentions of the United States and the basis for discussion at the conference.

File No. 774/772.

The Acting Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 5, 1910.

Mr. Wilson states that the fixing of September 15 by the United States for meeting of opium conference was purely tentative, according to the preparedness and convenience of the participating powers, and says, if necessary to the wishes of China, whose interests in the

¹ Not printed.

conference are so especially great, the Netherlands Government will no doubt postpone the meeting until October 15.

Mr. Wilson directs the legation to make clear the views of the United States, and adds that besides a tentative program the Government of the United States will submit to the conference tentative subjects of discussion based on reservations and views already expressed by the various powers to the department. Mr. Calhoun is instructed to explain that it is merely a matter of convenience whether China communicates its views and reservations to the United States at this time or prefers to first express them at the conference which will draw up the final program.

File No. 774/775.

The Netherlands Minister to the Secretary of State.

[Telegram.]

NETHERLANDS LEGATION,
Bar Harbor, Me., August 6, 1910.

Am instructed inform your excellency that Chinese Government having urgently requested postponement, my Government will propose later date for convening opium conference.

LOUDON.

File No. 774/775.

The Acting Secretary of State to the Netherlands Minister.

No. 83.]

DEPARTMENT OF STATE,
Washington, August 10, 1910.

SIR: I have the honor to acknowledge the receipt of your telegram, dated August 6, 1910, in which you state that you are instructed by your Government to inform the Secretary of State that the Chinese Government having urgently requested a postponement of the prospective opium conference, your Government will propose a later date for the convening of the conference.

In reply I have the honor to state that on August 5 last, at 5 p. m., the following cablegram was sent for the information of your Government to the minister of the United States at The Hague:

See that it is clear to the Netherlands Government that our suggestion of September 15 as the date of the opium conference was purely tentative, depending naturally upon the convenience and preparedness of the powers concerned, as to which the Government of the Netherlands to which this phase of the matter is intrusted will naturally consult them.

Explain that the following powers have signified that they will participate: China, France, Germany, Italy, Japan, Portugal, Persia, Russia, and Siam; that Austria-Hungary has declined; that Turkey has not yet replied; that the final reply of Great Britain is shortly expected; that China has expressed to this Government doubt whether it could be prepared at the date suggested; and that we ourselves have no information indicating the preparedness of Great Britain.

You will see, therefore, that the Government of the United States leaves to your Government the decision in regard to the date of convening the conference.

Accept, etc.,

HUNTINGTON WILSON.

File No. 511.4a/796.

Ambassador Reid to the Secretary of State.

No. 1426.]

AMERICAN EMBASSY,
London, September 19, 1910.

SIR: With reference to the department's circular instruction of the 1st of September, 1909, relative to the international opium conference which it is proposed should be held at The Hague, I have the honor to inclose herewith copy of a note received by me from the foreign office on the 18th instant.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.** FOREIGN OFFICE,
London, September 17, 1910.

YOUR EXCELLENCY: I have the honor to inform your excellency that I am now in a position to reply to the invitation of the United States Government contained in your note of the 23d of September last as to the representation of this country in the international opium conference which it is proposed should be held at The Hague for the purpose of conventionalizing the resolutions of the Shanghai commission.

His Majesty's Government desire, equally with the Government of the United States, that effect should be given to the resolutions of the Shanghai commission, and I have the honor to inform your excellency that they will be ready, if satisfactory assurances can be given to them on certain points, to take part at the proper time in a conference for the furtherance of this object, although, in view of the contents of the resolutions, it is doubtful whether there is much scope for international action, and whether the ground for fruitful discussion has as yet been cleared by the completion in each country of the detailed inquiries and measures of reform which the commission recommended. In particular His Majesty's Government desire to be assured that if they participate in a conference the other participating powers are willing that the conference should thoroughly and completely deal with the question of restricting the manufacture, sale, and distribution of morphia, which forms the subject of the fifth resolution of the Shanghai commission; and also with the allied question of cocaine. In India, in China, and in other Eastern countries the importation of morphia and cocaine from occidental countries and the spread of morphia and the cocaine habit is becoming an evil more serious and more deadly than opium smoking, and this evil is certain to increase as the restrictions which are now placed in India and in China on the production and use of opium become more stringent. Indian and Chinese experience shows that the morphia and the cocaine evil can not be efficiently controlled except at the source—in the stages of manufacture and of distribution in the manufacturing countries.

If recommendation 5 of the Shanghai commission is to be treated effectively in this sense in the proposed international conference it will be necessary that the participating powers should have definitely considered beforehand the question whether they are prepared to impose severe restrictions on the manufacture of and trade in morphia and cocaine in their respective countries. His Majesty's Government suggest that the United States Government should ascertain from the several powers whether, if a conference is held, they are prepared to discuss in it the morphia and cocaine question from this point of view, and should invite them to undertake, with a view to such discussion, the indispensable preliminary inquiries into trade conditions and to collect statistics of manufacture and export. His Majesty's Government on their part are now setting on foot the necessary inquiries in this country.

It may be desirable to ascertain from the several powers, should they agree to undertake similar investigations in their respective countries, what length of time will be required for the purpose, as information on this point will indicate approximately the date when the conference may be usefully held.

Until satisfactory assurances in this respect are obtained from the powers and the preliminary inquiries have been completed, His Majesty's Government consider that the convening of a conference would be premature. As regards the subjects for discussion other than morphia and cocaine, in the event of a conference being convened, His Majesty's Government consider that they should be those indicated in the recom-

recommendations of the Shanghai commission, and they must take exception to the items numbered (h), (l), (m), and (n), of the tentative program proposed in the circular letter of the United States Government. These they are not prepared to discuss, and in particular they consider that the following matters should be excluded from consideration by the conference:

1. The arrangement made between His Majesty's Government and China respecting the progressive restriction of opium imports and of opium production in China.

2. Other existing treaties between the two countries.

I should also draw your excellency's attention to the fact that in item (a) of the program the epithet "uniform" is opposed to the express finding of the Shanghai commission. The commission recognized that the production, manufacture, and distribution of opium could not be subjected to uniform laws, and it appears undesirable to His Majesty's Government, in view of this finding, that the question should again be raised.

I am to express the hope that you will, in communicating the purport of these observations to your Government, add the assurance that if the conditions which His Majesty's Government have thought it necessary to propose as indispensable to the success of a conference can be complied with, they will be glad to cooperate with the project of conventionalizing the resolutions of the Shanghai commission by means of an international conference.

File No. 511.4A1/790.

The Acting Secretary of State to Chargé Tarler.

No. 217.]

DEPARTMENT OF STATE,
Washington, September 21, 1910.

SIR: The department is in receipt of your dispatch No. 635 of August 1, 1910, in which you confirm your cable of May 11 last to the effect that His Siamese Majesty's Government accepts in principle the tentative program of this Government's proposal for an international opium conference.

The department notes that on the 25th of July last the Netherlands minister, Mr. Neiuwenhius, forwarded to His Siamese Majesty's foreign office the invitation to attend the conference; that the invitation was in turn forwarded to the minister of finance; and that His Siamese Majesty's foreign minister, Prince Devawongse, is arranging to send an acceptance to the Netherlands minister stating that the Siamese delegates are to be Phya Visutr Kosa, the Siamese minister to London, and W. J. Archer, Esq., C. M. G., councillor to the Siamese legation in London.

Prince Devawongse will no doubt have learned by this time, through the Netherlands minister, that the date of the conference has been postponed, China having informed the Netherlands Government that she would not be prepared for the conference before the 15th of October.

I am, etc.,

HUNTINGTON WILSON.

File No. 511.4A/794.

The Acting Secretary of State to Ambassador Reid.

No. 1391.]

DEPARTMENT OF STATE,
Washington, September 24, 1910.

SIR: The department acknowledges the receipt of your cable No. 691, September 19, 8 p. m., which is as follows:

Note received from foreign office last night agreeing to opium conference, on condition that the several powers participating shall have first made the necessary preliminary studies as to trade conditions and manufacture of morphine and cocaine in their respective countries, and are prepared to impose severe restrictions on manu-

facture and trade. Thinks you should first ascertain whether they will do this and how much time they will require, before you can fix the date, otherwise conference would be premature.

They are not prepared to discuss items numbered H, L, M and N of tentative program in your circular letter; and in particular would exclude their arrangement with China about progressive restriction opium and opium production, as well as other existing treaties between the two countries. Also object to use of word "uniform" in item A of program, as opposed to express finding of Shanghai commission.

Assure you that with reservations on these points they will be glad to cooperate in conference.

Text of note first by pouch.

You will inform Sir Edward Grey that this Government is highly gratified at the acceptance by the British Government of our proposal for an international opium conference to be held at The Hague.

To avoid unnecessary delay in the meeting of the conference the Netherlands and other Governments will immediately be informed of the British Government's proposal that before the meeting of the conference there shall have first been made the necessary preliminary studies as to the trade conditions and manufacture of morphine and cocaine in the interested countries, and their preparedness to impose severe restrictions on such manufacture and trade.

The question of restricting the manufacture, sale, and distribution of morphine was thoroughly discussed in the Shanghai commission, and the delegates thereto united in urging upon their Governments that it is highly important that drastic measures should be taken to control the manufacture, sale, and use of this derivative of opium and such other derivatives of the drug as may appear on scientific inquiry to be liable to similar abuse and productive of like ill effects. This conclusion was embodied in resolution 5 of the Shanghai commission, which, prepared by the British delegation, is as follows:

That the International Opium Commission finds that the unrestricted manufacture, sale, and distribution of morphine already constitute a grave danger, and that the morphine habit shows signs of spreading; the International Opium Commission, therefore, desires to urge strongly on all Governments that it is highly important that drastic measures should be taken by each Government in its own territories and possessions to control the manufacture, sale, and distribution of this drug, and also of such other derivatives of opium as may appear on scientific inquiry to be liable to similar abuse and productive of like ill effects.

The question of manufacture, sale, and distribution of cocaine was not officially considered by the Shanghai commission, but there were many informal discussions which tended to show that the abuse of this drug had begun to make headway in the Far East as well as in the United States and Canada. Therefore it seems to this Government that resolution 5 indicates a willingness on the part of the interested Governments to include cocaine in the category of menacing drugs, and that a cordial cooperation of the powers may be secured to place it under the same drastic restrictions that are needed in the case of morphine.

The abuse of cocaine is widespread in the United States, and this Government is highly pleased that the British Government should have taken the initiative in proposing that the question be brought to the attention of the Governments which are to participate in the opium conference.

You will point out to Sir Edward Grey that the United States has already completed its examination of the morphine and cocaine questions, reports on these subjects being contained in the general opium report sent to you under date of August 3, last, a copy of

which was to have been transmitted to the British Government. You will also state that in conformity with the ascertained conditions in the United States and its possessions, legislation has been drafted which it is hoped when enacted by Congress will bring under effective control both the foreign and domestic traffic in these drugs.

You will further inform Sir Edward Grey that note is made of the British Government's reservations in regard to items numbered H, L, M, and N of the tentative program in our circular letter proposing the conference; that especially they would exclude from discussion their arrangements with China in regard to the 10-year agreement for the progressive restriction of opium and opium production, as well as other existing treaties between the two countries. No disposition exists on the part of the United States to discuss in conference agreements particular to Great Britain and China. This Government also agrees in the objection to the use of the word "uniform" in Item A of the tentative program. Item A should more properly have read "the advisability of more 'effective' national laws, regulations," etc.

For the information of the British Government you are informed that all of the Governments represented in the International Opium Commission have now accepted this Government's proposal for an international opium conference, except Austria-Hungary, that Government having declined our proposal owing to its slight material interest in the opium traffic and its lack of possessions in the Far East. Turkey, which was invited to the International Opium Commission, but declined owing to its having no representative in China, has under consideration this Government's proposal for an international opium conference, the latest advice from Constantinople being to the effect that the Turkish Government is studying the commercial aspects of the opium problem, and will in a short time indicate its attitude toward the conference.

Proposals and reservations have been made by several powers, while others have agreed to accept as bases for discussion in the conference the tentative program in our circular letter proposing the latter. The views of Japan, Germany, and France have been promised, and are shortly expected. As soon as all reservations and proposals have been received it is the intention of the department to have them collated, printed, and ready for circulation on the meeting of the conference. It is thought that this plan will be conducive to a more businesslike conduct of the conference. It has, however, been explained to the various Governments that it is merely a matter of convenience whether they shall now communicate to this Government their full proposals and reservations, or express them at the conference, which will itself draw up the final program.

I am, etc.,

ALVEY A. ADEE.

File No. 511.4A1/794.

The Acting Secretary of State to Minister Beaupré.

No. 168.]

DEPARTMENT OF STATE,
Washington, September 27, 1910.

SIR: The department incloses for the information of the Netherlands Government a copy of a dispatch to Ambassador Reid, which embodies and is a reply to a cable from him informing the depart-

ment that the British Government agrees on certain conditions to participate in the international opium conference to be held at The Hague.

You will observe by Mr. Reid's cable that it is the desire of Great Britain that the interested powers first make a preliminary study of the trade conditions and manufacture of morphine and cocaine in their respective countries, and indicate their willingness to impose severe restrictions on such manufacture and trade before the conference meets. The United States is in entire accord with the proposals of the British Government as to restricting traffic in morphine and cocaine and you will see by resolution 5 of the Shanghai commission, which is quoted in the dispatch to Mr. Reid, the general principle embodied in the British proposals was agreed to by all the powers participating in that commission. You will also learn from the dispatch to Mr. Reid that the United States has already completed its examination of the morphine and cocaine questions, reports on these subjects being contained in the general opium report sent to you under date of August 3 last, a copy of which you are directed to transmit to the Netherlands Government.

As all the Governments represented in the International Opium Commission have now accepted our proposal for the conference except Austria-Hungary, which has declined owing to its slight material interest in the opium question and its lack of possessions in the Far East, it would seem to this Government that the way is now open for an early assembling of the conference. The Government of the Netherlands having most courteously consented to occupy itself with the actual assembling of the conference, it is appropriate to bring the British proposals to the attention for the minister for foreign affairs so that, when issuing the invitations for the conference, he may be in a position to notify the interested Governments of the British proposals in regard to morphine and cocaine, and that these proposals are in entire accord with the decision of the Shanghai Opium Commission as set forth in its resolution No. 5.

Note has been made of the British reservations in regard to items H, L, M, and N, and the British Government has been informed that this Government is not disposed to discuss in the conference agreements particular to Great Britain and China.

Proposals and reservations in regard to the tentative program of our letter proposing the conference have been made by several of the interested powers, while others have agreed to accept the tentative program as a basis for preliminary discussion. These proposals and reservations, as well as those of the British Government, are now being collated and will soon be printed and forwarded to the Netherlands Government for its information and appropriate course when the conference meets.

You will inform the department by cable as to what action the Netherlands Government proposes to take to bring about an early assembling of the conference. The Siamese Government has already informed us that its delegation will be composed of Phya Visutr Kosa, the Siamese minister to London, and W. J. Archer, Esq., C. M. G., councillor to the Siamese legation in London, which would seem to indicate that the countries farthest removed from The Hague will appoint as their representatives diplomatic officers resident at the European capitals. The American delegation to the conference will

be announced as soon as the department learns that the Netherlands Government has issued the invitation for the conference.

I am, etc.,

ALVEY A. ADEE.

File No. 774/766.

The Acting Secretary of State to Ambassador Kerens.

No. 63.]

DEPARTMENT OF STATE,
Washington, October 4, 1910.

SIR: The department received in due course your dispatch No. 50, of July 6 last, with which you transmitted copy and translation of a personal note to you from Count Aehrenthal, the minister of foreign affairs, dated July 4, from which it appears that the Austro-Hungarian Government has finally decided not to participate in the opium conference to be held at The Hague; also copy and translation of memorandum accompanying the foreign minister's note in which are given the reasons for the nonparticipation of his Government, and stating that they will follow with much interest the deliberations of the conference.

You will inform the minister for foreign affairs that while this Government naturally regrets the decision of the Austro-Hungarian Government, nevertheless their reasons therefor are fully appreciated. Further, that this Government is highly gratified to learn of the interest with which the action of the conference will be followed by the Austro-Hungarian Government, and ventures to hope that the conclusions arrived at by the conference may be of such a nature as to win their approval and adherence.

I am, etc.,

ALVEY A. ADEE.

File No. 511.4A1/800.

Chargé Philip to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Pera, October 12, 1910.

Mr. Philip says in reply to embassy's note the minister for foreign affairs states that the Ottoman Government will not participate in the international opium conference, and asks that thanks be extended to the United States for kind invitation.

File No. 511.4A1/921.

Minister Calhoun to the Secretary of State.

No. 112.]

AMERICAN LEGATION,
Peking, October 25, 1910.

SIR: Having reference to the department's telegram of September 27¹ and to the legation's telegraphic reply of October 4¹ on the subject of the proposed international opium conference to be held at The Hague, I have the honor to transmit herewith copy of notes received

from the foreign office, dated August 31, 1910, and October 3, 1910, wherein it is stated that China has already appointed delegates, whose names are given, to represent her in the proposed conference, and that as soon as the date is set for the opening of the conference these delegates will at once proceed to The Hague.

I have, etc.,

W. J. CALHOUN.

[Inclosure 1—Translation.]

The Prince of Ch'ing to Minister Calhoun.

No. 29A.]

FOREIGN OFFICE,
Peking, August 31, 1910.

YOUR EXCELLENCY: On the 24th day of the ninth moon of last year (Nov. 6, 1909) I had the honor to receive a note from the Hon. H. P. Fletcher, chargé d'affaires for the United States, informing my Government that the American Government intended bringing about an international conference at The Hague to consider the prohibition of opium, and inviting the Chinese Government to appoint delegates, said delegates to be given the rank of plenipotentiaries, to the end that a convention might be agreed upon and signed. The reply of this board to the above note is on record.

On the 19th day of the sixth moon (July 25, 1910) my board received a note from the Dutch minister to China stating that the conference would be opened on the 13th day of the ninth moon (Oct. 15, 1910). My board has therefore obtained the appointment of delegates as follows: As China's plenipotentiary representative, Liu Yü-lin, junior secretary of the board of foreign affairs, and as additional delegates to participate in the deliberations China's chargé d'affaires at The Hague Secretary of Legation T'ang Tsai-fu, and T'ang Kuo-an, under secretary of the board of foreign affairs.

A necessary dispatch.

(SEAL OF THE WAI-WU PU.)

[Inclosure 2—Translation.]

The Ministers of the Foreign Office to Minister Calhoun.

No. 51.]

FOREIGN OFFICE,
Peking, October 3, 1910.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note of the 29th ultimo, informing this board that Great Britain had signified her intention of taking part in the International Opium Conference to be held at The Hague, and also stating that you had received telegraphic instructions from your Government directing you to ascertain whether the delegates appointed by this country would be able to proceed to the conference at an early date. Your excellency requested an early reply to this question, in order that you might in turn inform the American Government.

This country has already appointed delegates to represent China in the coming International Opium Conference at The Hague, as was stated in this board's note to the legation of August 31, 1910. As soon as a date is set for the opening of the conference these delegates will at once proceed to The Hague. We transmit this information to your excellency in order that you may appraise your Government thereof.

(Signed)

PRINCE OF CH'ING.
NA-T'UNG.
TSOU CHIA-LAI.
HU WEI-TE.
TS'AO JU-LIN.

File No. 511.4A1/915.

Chargé Hibben to the Secretary of State.

No. 437.]

AMERICAN LEGATION,
The Hague, November 2, 1910.

SIR: Referring to my telegram of the 28th ultimo¹ relating to an intimation from the minister for foreign affairs in regard to the date for the opening of the International Opium Conference, and to my

¹Not printed.

cablegram of to-day's date,¹ I have the honor to inclose herewith a copy and translation of a note, just received, from Mr. Van Swinderen, in which he advises me that the Netherlands Government proposes Wednesday, the 30th of May, 1911, as the date for the meeting of the conference in question.

I have, etc.,

PAXTON HIBBEN.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Chargé Hibben.

MINISTRY FOR FOREIGN AFFAIRS,
The Hague, November 1, 1910.

MR. CHARGÉ D'AFFAIRES: Referring to your note of the 19th of October last, file 30020.18, I have the honor to inform you that Her Majesty's Government proposes as date for the opening of the International Conference for Prevention of the Abuse of Opium, Wednesday, the 30th of May, 1911.

In adding that the States intending to participate in the conference have been notified of the above,

I renew, etc.,

R. DE MAREES VAN SWINDEREN.

File No. 511. 4A1/913.

Ambassador Reid to the Secretary of State.

No. 1463.]

AMERICAN EMBASSY,
London, November 5, 1910.

SIR: Referring to my dispatch No. 1426 of the 19th of September last, relative to the proposed International Opium Conference to be held at The Hague, and in further confirmation of my telegram of to-day's date, I have the honor to transmit herewith duplicate copies of the note received from the foreign office, dated November 3, in which inquiry is made whether steps had been taken to obtain the necessary assurances from the other participating powers regarding their willingness to restrict the manufacture, distribution, and sale of morphia and cocaine, since the British Government made its consent absolutely dependent on these assurances having been first obtained from the Governments concerned.

I have, etc.,

WHITELAW REID.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, November 3, 1910.

YOUR EXCELLENCY: In the note which you were so good as to address to me on the 4th ultimo with regard to the proposed international opium conference to be held at The Hague, your excellency stated that the Netherlands Government would immediately be informed of His Majesty's Government's proposal that before the meeting of the conference there shall have first been made the necessary preliminary studies as to the trade conditions and manufacture of morphia and cocaine in the interested countries and their readiness to impose severe restrictions on such manufacture and trade.

In the note which I had the honor to address to your excellency on the 17th September I stated that His Majesty's Government would have pleasure in taking part in an international conference for the purpose of conventionalizing the resolution of the Shanghai commission if satisfactory assurances could be given to them on certain points and that in particular His Majesty's Government desired to be assured that the other participating powers were willing that the conference should thoroughly and completely deal with the question of restricting the manufacture, sale, and distribution of morphine and with the allied question of cocaine.

I have the honor, therefore, to inquire of your excellency whether steps have been taken to obtain the assurances desired from the other powers, as His Majesty's Government felt compelled after careful consideration to make their consent to take part in the conference conditional upon these assurances being first obtained from the Governments of the powers concerned.

(For Sir Edward Grey):

F. A. CAMPBELL.

File No. 511. 4A1/914.

Chargé Hibben to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
The Hague, November 10, 1910.

Mr. Hibben says the minister for foreign affairs informs him that the proposals of Great Britain relative to a preliminary study of morphine and cocaine conditions were not included in opium conference invitation, but that a supplementary note embodying them will be sent at once. Mr. Hibben states that the minister for foreign affairs said also that he had not been advised that the acceptance of British Government depended upon the action taken on the British proposals, and asks if he shall formally so advise him.

File No. 511. 4A1/914.

The Secretary of State to Minister Beaupré.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 12, 1910.

Mr. Knox instructs Mr. Beaupré to refer to paragraph 3, instruction No. 168, September 27, in which proposals of the British Government regarding morphine and cocaine were to be brought to the attention of the Netherlands minister for foreign affairs so that he would be in a position to notify the interested Governments of the British proposals when issuing invitations for the conference. Mr. Knox further instructs Mr. Beaupré to inform the minister for foreign affairs that it is the express desire of Great Britain that the other Governments should be prepared to discuss the morphine and cocaine questions in the conference, and that they be requested to undertake the indispensable preliminary inquiries into the trade conditions and to collect statistics as to the export and manufacture of these drugs. Mr. Knox adds that the United States Government has completed its study of these questions and the British Government has set on foot the necessary inquiries on their part.

File No. 511. 4A1/916.

Chargé Schuyler to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Tokyo, November 15, 1910.

Mr. Schuyler says the Government of Japan has no objection to substance of opium proposal, but reserve their views, and would like to know date of conference three months in advance.

Chargé Schuyler to the Secretary of State.

No. 1260.]

AMERICAN EMBASSY,
Tokyo, November 16, 1910.

SIR: Referring to previous correspondence on the proposed opium conference, and especially to my telegram of October 26, I have the honor to inform you that I am now in receipt of a note (No. 68) from the minister for foreign affairs, copies of which I inclose. The substance of this note I sent you last night by cable.

I have, etc.,

MONTGOMERY SCHUYLER.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Chargé Schuyler.

No. 68.]

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, November 15, 1910.

MR. CHARGÉ D'AFFAIRES: In acknowledging the receipt of his excellency the ambassador's note No. 498 dated the 7th October last and his correspondence, desiring the Imperial Government to communicate him at the earliest practicable time its views on the "tentative program" to be proposed by the United States Government at the international opium conference, and regarding the convening of the conference at an early date, I beg to state that the said program having been referred to the respective authorities concerned and careful consideration been thereto given by them, I am now in receipt of their replies to the effect that as regards the substance of the proposals the respective authorities have no objection thereto, but as to its details they beg to reserve their views until they are set forth at the conference. To the convening of the conference at an early date the authorities take also no exception whatever. They desire, however, in view of the necessary preparations that the notice thereof should reach them at least three months in advance. I therefore beg to request that you will be so good as to communicate to the above effect to the United States Government.

Accept, etc.,

COUNT KOMURA.

File No. 511. 4A1/919.

The Netherlands Minister to the Secretary of State.

[Translation.]

No. 1022.]

NETHERLANDS LEGATION,
Washington, November 16, 1910.

MR. SECRETARY OF STATE: By order of the Queen's Government I have the honor to propose to your excellency that the date of May 30, 1911, be set for the meeting of the international conference relative to the opium trade.

The Government regrets that owing to the preparatory measures for the conference it is impossible to propose to call it at an earlier date.

Begging your excellency kindly to let me know as soon as possible whether the proposed date is acceptable,

I embrace, etc.,

J. LOUDON.

File No. 511. 4A1/918.

The Secretary of State to Chargé Schuyler.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 17, 1910.

Mr. Knox instructs Mr. Schuyler to inform the minister for foreign affairs that the United States Government is gratified that Japan has no objection to the substance of British proposals regarding morphine and cocaine; that reservation of their views is understood; and that the Government of the Netherlands has proposed May 30, 1911, for meeting of opium conference, thereby anticipating the desire of Japan for three months to make preparations.

File No. 511. 4A1/915.

The Secretary of State to Chargé Hibben.

No. 171.]

DEPARTMENT OF STATE,
Washington, November 19, 1910.

SIR: The department acknowledges the receipt of your No. 437, of the 2d instant, with which you inclose a copy and translation of a note just received from Mr. Van Swinderen, in which he advises you that the Netherlands Government proposes Wednesday, the 30th of May, 1911, as the date for the meeting of the international opium conference at The Hague.

You will inform the minister for foreign affairs that this Government is highly gratified that the date for the assembling of the conference has been determined upon. The proposed date is wholly convenient to the United States.

I am, etc.,

(For Mr. Knox).
ALVEY A. ADEE

File No. 511. 4A1/918.

The Secretary of State to Ambassador Reid.

No. 1422.]

DEPARTMENT OF STATE,
Washington, November 25, 1910.

SIR: The department acknowledges the receipt of your No. 1463 of the 5th instant, in which, referring to your No. 1426, of the 19th of September last, relative to the proposed international opium conference to be held at The Hague, you transmit in duplicate,

copies of a note received from the foreign office dated November 2, in which inquiry is made whether steps have been taken to obtain the necessary assurances from the other participating powers regarding their willingness to restrict the manufacture, distribution, and sale of morphine and cocaine, since the British Government made its consent absolutely dependent on these assurances having first been obtained from the Governments concerned.

This Government highly appreciates the value of the British proposals in regard to the manufacture, distribution, and sale of morphia and cocaine, and is in full sympathy with them. The United States has almost completed its study of the subjects, and, anticipating the action of the conference, the department has had drafted several measures which are now before the appropriate committees of the Congress. These measures, if passed and approved, will control the importation, exportation, and manufacture of the drugs. As the Netherlands Government has courteously consented to occupy itself with the actual assemblings of the conference and had already tendered a general invitation to the interested Governments to meet at The Hague, the department instructed Mr. Beaupré to lay the British proposals before that Government with the object that it should ascertain the views of the interested powers when arranging for the date of the conference.

You were further informed by a cable of the 12th instant that the Netherlands Government had issued a supplementary note to the interested powers embodying the British proposals. Probably by this time the Netherlands Government has instituted the necessary inquiries of the interested Governments in regard to morphia and cocaine, for the department has just learned from the Japanese Government that it has no objection to the substance of the British proposals, but that it prefers to reserve its views in regard to them to a later date.

It is the understanding of the department that China has completed her position in regard to the manufacture and distribution of morphia in that she has pledged herself to control the use of morphia in China and to prevent its manufacture by Article XI of the British-Chinese commercial treaty of 1902 and by Article XVI of the commercial treaty of 1903 between China and the United States, both articles having been assented to by all the treaty powers. Also that China has pledged herself in regard to the manufacture and distribution of cocaine, in that we were informed on February 19 last by the legation at Peking that China desired to apply to the importation of cocaine restrictions exactly similar to those now in force with respect to morphine; that the matter had been discussed by the diplomatic corps, and while it seemed to be the consensus of opinion that this request of the Chinese Government should be complied with, it was thought necessary to have the express approval of the Governments concerned, which all the ministers had promised to ask. On the 28th of March last this Government informed the Chinese Government that it approved of the proposed measures for the prohibition, except under restrictions similar to those enforced with respect to morphine, of all importation of cocaine into China.

The department expects that the Netherlands Government will soon give notification to the effect that the other Governments which are to take part in the forthcoming opium conference assent to the

British proposals in regard to morphine and cocaine, since they are in conformity with the spirit of resolution 5 unanimously adopted by the International Opium Commission. Should the department learn anything further touching the views of the other interested Governments in regard to the British proposals, you will be promptly informed.

I am, etc.,

(For Mr. Knox).

HUNTINGTON WILSON

File No. 511. 4A1/919.

The Secretary of State to the Netherlands Minister.

No. 100.]

DEPARTMENT OF STATE,
Washington, November 26, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in which, by direction of the Government of the Netherlands, you propose that the date of May 30, 1911, be set for the meeting of the International Conference relative to the opium trade, and state that that Government regrets that owing to the preparatory measures for the conference it is impossible to propose to call it at an earlier date.

I beg to inclose for your information a copy of the instruction¹ sent to the American Legation at The Hague, in acknowledgment of a note transmitted to the American chargé d'affaires by Mr. van Swinderen, in which he advised this Government that the Netherlands Government proposed Wednesday, the 30th of May, 1911, as the date for the meeting of the conference.

You will see by this instruction that this Government has expressed its high gratification that the date for the assembling of the conference had been determined upon, and that the date proposed is convenient to the United States.

Accept, etc.,

P. C. KNOX.

File No. 511. 4A1/927.

Ambassador Reid to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, December 2, 1910.

Mr. Reid refers to previous correspondence and says he is advised by the foreign office that it has been found necessary to introduce compulsory declaration in England in order to obtain necessary data regarding value and quantities of imports and exports of cocaine and morphine, and that as this can not go into operation until the 1st of January that several months must elapse before the desired statistics can be considered representative of the ordinary course of trade. Mr. Reid adds that the board of trade does not consider it advisable to institute inquiries as to the extent of manufacture of articles in

¹ No. 171, November 19, supra.

question in the United Kingdom until reliable information on exports and imports is available, and that the foreign office requests that the department be informed of above in order to communicate to other countries concerned.

File No. 511. 4A1/921.

The Secretary of State to Minister Calhoun.

No. 90.]

DEPARTMENT OF STATE,
Washington, December 6, 1910.

SIR: The department acknowledges the receipt of your dispatch No. 112, of October 25 last, with which you transmit copies of notes received from the foreign office, dated August 31, 1910, and October 3, 1910, wherein it is stated that China has appointed delegates, whose names are given, to represent her in the proposed international opium conference; also copy of an imperial edict which appeared on September 28, 1910, and an editorial from the Peking Daily News of the same date, both of which relate to the opium question.

You will inform the foreign office that this Government is highly gratified that China's plenipotentiary representatives are to be Lew Yuk-lin, T'ang Fuo-an, and T'ang Tsai-fu, the first two having so ably represented China at the International Opium Commission.

You will also inform the foreign office that Great Britain, in accepting this Government's proposal for the conference, did so on condition that the interested Governments make a preliminary study of the manufacture and trade in morphine and cocaine, and that they indicate their willingness to enact drastic measures to control such manufacture and trade. The Netherlands Government, which most courteously consented to arrange with the interested Governments the date for the meeting of the conference, has informed this Government that May 30, 1911, has been decided upon, and that it will learn from the participating powers their views in regard to the manufacture of and trade in morphine and cocaine. The Japanese Government has already informed this Government that it is favorably inclined to the British proposals; and the department feels assured, in virtue of the morphine articles in the British-Chinese and American-Chinese commercial treaties of 1902 and 1903, and China's recent request to be permitted to apply the general principle of these articles to the importation of cocaine, that the British proposals will be acceptable to the Chinese Government.

I am, etc.,

P. C. KNOX.

File No. 511. 4A1/927.

The Secretary of State to Minister Calhoun.¹

DEPARTMENT OF STATE,
Washington, December 7, 1910.

SIR: The department desires you to inform the minister for foreign affairs that, according to information received from the American

¹ Similar instructions sent to the American embassies at Berlin, Paris, St. Petersburg, Rome, and Tokyo and the American legations at Lisbon, Teheran, and Bangkok.

ambassador at London, the Government of Great Britain will institute compulsory declaration on January 1, next, in regard to the quantities and value of imports and exports of morphine and cocaine in accordance with the proposals of that Government that the interested Governments make a study of the manufacture and trade of these drugs before the meeting of the International Opium Conference.

I am, etc.,

P. C. KNOX.

File No. 511. 4A1/927.

The Secretary of State to Ambassador Reid.

No. 1431.]

DEPARTMENT OF STATE,
Washington, December 9, 1910.

SIR: The department acknowledges the receipt of your cablegram of the 2d instant, in which you state that the foreign office has informed you that in order to obtain the necessary data in regard to morphine and cocaine it has been found necessary to introduce a compulsory declaration in Great Britain with regard to the quantities and value of imports and exports of the drugs; that the compulsory declaration will go into operation on January 1 next, and that consequently several months must elapse before the desired statistics can be gathered and considered representative of the ordinary course of trade.

Those Governments interested in the forthcoming opium conference have been informed of the action taken by the British Government in accordance with its proposals that there should be a preliminary study of the manufacture and trade in morphine and cocaine before the conference.

I am, sir, etc.,

P. C. KNOX.

File No. 511. 4A1/933.

The Secretary of State to Chargé Schuyler.

No. 483.]

DEPARTMENT OF STATE,
Washington, December 22, 1910.

SIR: The department acknowledges receipt of your No. 1260 of November 16, inclosing a note, No. 68, from the minister for foreign affairs in regard to the International Opium Conference.

The department notes that you have been informed that the tentative program contained in the circular proposal of September 21, 1909,¹ was referred to the respective authorities concerned, and after being fully considered by them they have no objection thereto; but as to its details the Japanese Government begs to reserve its views until the conference assembles. Also that the Japanese Government has no objection to the convening of the conference at an early date.

You have been advised, for the information of the Japanese Government, that the Netherlands Government has proposed May 30,

¹ See Foreign Relations, 1909, p. 112.

1911, as the date for the assembling of the conference, and you will now inform Count Komura that this Government is highly gratified at the acceptance by the Japanese Government of the general principles of the tentative program proposed by the United States, and that this Government appreciates the desire of the Japanese Government to reserve its full views in regard thereto until the convening of the conference.

I am, etc.,

P. C. KNOX.

The Secretary of State to Minister Calhoun.¹

DEPARTMENT OF STATE,
Washington, December 29, 1910.

SIR: You will inform the Government to which you are accredited that, in pursuance of a policy to act promptly on the findings of the International Opium Commission, the Department of State has drafted legislation for the control of the importation, manufacture, and distribution within the United States and its territories, and of exportation to foreign countries, of opium, morphine, cocaine, and other so-called habit-forming drugs, and there is transmitted herewith for your information and for the information of the minister for foreign affairs, three copies of a hearing, held May 30, 1910, before the Ways and Means Committee of the House of Representatives, on the proposed legislation. A more recent hearing has been held before that committee on the proposed measures, and further hearings will be held at an early date.

It may be stated that the result so far achieved by this Government has been to secure the cooperation of American importers, manufacturers, and exporters of these drugs in favor of the principles of the proposed legislation and that it is the hope of the department, in view of the impending International Opium Congress, that the present session of Congress will favorably act on the measures. You will observe that the several bills which are now before the Congress are appended to the hearings which accompany this dispatch.

You will also inform the minister for foreign affairs that this Government has taken steps to legislate in conformity with resolutions 8 and 9 of the International Opium Commission. These resolutions are as follows:

Resolution 8. That the International Opium Commission recommends strongly that each delegation move its Government to enter into negotiations with the Chinese Government with a view to effective and prompt measures being taken in the various foreign concessions and settlements in China for the prohibition of the trade and manufacture of such antioium remedies as contain opium or its derivatives.

Resolution 9. That the International Opium Commission recommends that each delegation move its Government to apply its pharmacy laws to its subjects in the consular districts, concessions, and settlements in China.

To accomplish the purposes of resolutions 8 and 9 there is now before the Congress a comprehensive pharmacy act based on the Federal pharmacy act in force in the District of Columbia. This act has been favorably reported by the Committee on Foreign

¹Same to France, Germany, Italy Japan, Netherlands, Persia, Portugal, Siam, and Russia.

Relations of the Senate, and it is expected that it will be acted upon by that body during the present session of Congress. For your information and for the information of the minister for foreign affairs three copies of this act (Senate 8208, 61st Cong., 3d sess., Calendar 663), are herewith transmitted.

I am, etc.,

P. C. KNOX.

[To be continued in Foreign Relations, 1911.]

POLITICAL AFFAIRS IN CHINA.

File No. 1518/344.

Chargé Fletcher to the Secretary of State.

No. 1317.]

AMERICAN LEGATION,
Peking, December 6, 1909.

SIR: In continuation of the legation's dispatches on constitutional reform in China I have the honor to transmit herewith translations of two imperial decrees, which are of more historical than political interest.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure.]

Extract from the North China Daily News, November 29, 1909.

IMPERIAL DECREE NOVEMBER 25.

Whereas edicts have been issued in the previous reign, earnestly announcing the importance of making preparations for a constitution and fixing a strict period within which different ministries were made responsible to carry out any published reform measure assigned. To this effect there were repeated commands. Since accession to the Throne we have issued several decrees and have in rescripts to memorials laid emphasis on the subject. Through these means our sincere wish to push on the progress of constitutional reform must have been patent to the officials and subjects in the Empire.

We have received from the presiding officials of the various ministries and viceroys and governors in the different Provinces of the constitutional preparations carried out in the first and second years, according to the program, and find them on the whole satisfactory. But if they would but throw their hearts into the work and devote their energies towards carrying out those reforms, in due course success might be expected.

It is, however, apprehended that committing the long standing error, some of them may seek to discharge their responsibility by presenting a mere memorial without taking any real action. They should bear in mind that these measures are of the highest importance, and are to be carried out in compliance with plans of the preceding Emperor as well as to satisfy the hopes of the people.

Henceforth officials should bestir themselves and seek to effect improvements with energy in undertaking the tasks intrusted to them. They should neither exaggerate their doings nor hide faults. If obstacles arise in the way of accomplishing any object, they are permitted to memorialize us and devise such means as may be necessary in the circumstances. They are desired, however, firmly to pursue their course and to carry through their aim in spite of difficulties. They should neither quail before difficulties nor evade responsibilities.

The present troublous position of affairs has been a source of constant and great solicitation to the Throne, and the ministers, having received bounties from the state, should do their utmost to shoulder the responsibilities. If matters are presented

with the least falsity and in consequence they fail to carry out the constitutional reforms in due time, can they bear the consequences?

The commission of constitutional reforms is commanded to supervise the preparations as reported, and in the event of any delay or perfunctory efforts or misrepresentations being discovered, to make a denunciation to us, giving the full facts. We will reverently obey the edict issued on the 1st of the 8th moon last year, and mete out penalty to those guilty according to the rules against negligence in office. With the established regulations before us we shall show no lenience. In short, it must be pointed out that responsibility can not be evaded, while cooperation is necessary to insure success.

It is hoped that the ministers, both within and without the capital, will observe harmony and banish private feelings; that they will neither form factions to oppose different views, nor begin any measure in diligence and end it in idleness. It is only by such means that unity of mind can be established between sovereign and ministers and benign government can be secured.

2. Tsai Ying is commanded to assume temporary charge of the brigade generalship of Ma Lan prior to Chi Ling's arrival.

IMPERIAL DECREES, NOVEMBER 26.

1. The memorial presented by the commission of constitutional reforms traversing the reports on the reform measures carried out in the different districts and departments, and suggesting rewards and punishment in the matter, is approved. The object of these reports is to compare the merits of official administration and encourage men of superior talents, but though many of the viceroys and governors have submitted ample reports there are others whose reports have been quite meager. It is incredible that such should be the case, yet such firmly rooted evils greatly affect the progress of constitutional reforms. Take, for example, the instance of police administration, of which reports have only been made in a few instances, while in other districts the system has not been put into operation. Negligence in other matters may thus be inferred. A period was strictly fixed for these measures to be carried out and arbitrary evasion can not be permitted. The viceroys and governors are hereby commanded to comply with the regulations sanctioned to act with diligence in compiling reports for tables and to classify the administrations according to actual merit. This should be carried out faithfully and with justice, so that the Throne's wish to accomplish reforms in a true spirit may not be ignored.

2. Yen Chih, imperial agent at Urga, is allowed to vacate his post on account of illness.

3. San To is awarded the brevet rank of deputy lieutenant general and appointed acting imperial agent at Urga.

4. Lian Shou is hereby appointed deputy lieutenant general of Kueihhuacheng.

The above edicts are sealed by the Prince Regent and signed by the Grand Councillors Prince Ching, Shih Hsu, Lu Ch'uan-lin Na Tung, and Tai Hung-tze.

File No. 1512/359.

Chargé Fletcher to the Secretary of State.

No. 1354.]

AMERICAN LEGATION,
Peking, February 1, 1910.

SIR: In continuation of my No. 1317 of December 6, 1909, on the subject of constitutional reform in China, I have the honor to inclose translation of an interesting and important edict issued on the 30th ultimo in answer to a memorial presented by certain delegates from the provincial assemblies praying for the opening of the Imperial Parliament in advance of the time fixed in the original program.

The prayer of the memorial is refused on the ground that the time is not ripe and the firm purpose of the Throne to adhere strictly and consistently to the constitutional program is declared.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

IMPERIAL EDICT.

[Reverently received by the grand secretariat Jan. 30, 1910.]

The censorate has memorialized for Sun Hung-yin and others of the Chihli and other provincial assemblies asking that the Imperial Parliament may be speedily opened. We have read carefully the memorial and are greatly pleased with the sincere spirit of patriotism that is displayed therein. We reverently received from our predecessor the heavy responsibility of preparing for constitutional government, and in the beginning of our reign we notified all the court and provincial officials that the eighth year of Hsüan-t'ung would be the end of the period of preparation, and we fixed clearly the national program. We thus fulfilled our obligation to the sacred purpose of our predecessor left incomplete, and satisfied the aspirations of the reformers throughout the Empire.

Her Imperial Majesty the Empress Dowager Hsiao Ch'in Hsien and His Imperial Majesty the Emperor Te Tsung Ching (Kuang-hsü) formerly promulgated an edict containing the imperial decision that there should be nine years of preparation for the imperial constitutional régime of the Ta Ch'ing Empire. The edict of our predecessors states that while all power is in the hands of the court, all governmental affairs may be discussed by the people. This has been seen and heard by all the officials and people of the Empire. Now the court is toiling day and night, striving earnestly to attain a high ideal. Already the yamens of Peking and the Provinces have been repeatedly urged to keep to the program prescribed, in the hope that the parliament might be soon opened, to the strengthening of the foundations of the Empire. But our Empire is of wide extent. The measures of preparation are not complete. The intelligence and attainments of the people have not been made uniform. If the parliament should be hastily opened confusion and dissension might result, which would hinder the success of constitutional Government in its early stages. If so, we could not satisfy the spirit of our predecessor, now in Heaven, and how, we ask, would you delegates answer to the myriad myriads of the common people?

We are acting in a straightforward manner, without any concealment or pretense. Constitutional government shall be established, a parliament shall be opened. But care must be taken about the preparation and impatience restrained about the successive steps to be taken. Those who aim to travel far must tread firmly. Those who aspire to great things must not wrangle over small gains.

At present the provincial assemblies have all been established. During the next year the imperial senate (tzu Cheng Yuan) will be opened. These constitute the base of the pillar of parliament. We only desire our officials and people to be zealous in fulfilling their duties day by day, not losing the substance in clutching at the shadow. We now proclaim clearly that when the preparatory work of the nine years has been completed; when the education of the common people has been extended; at the proper time we will issue a resolute decree fixing the date for convening a parliament. Careful preparation is an essential part of zeal for good government. Let this be widely proclaimed.

Chargé Fletcher to the Secretary of State.

No. 1360.]

AMERICAN LEGATION,
Peking, February 7, 1910.

SIR: Referring to my No. 1354 of the 1st instant, on the subject of constitutional reform in China, with which was inclosed a translation of the edict refusing the prayer of the memorial of certain delegates from the provincial assemblies to advance the date of the opening of the Imperial Parliament, I have the honor to inclose herewith a translation of the edict, issued on the 3d, in reply to the memorial of the censor, Chao Hsi.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

EDICT ISSUED FEBRUARY 3, 1910.

On the 20th day of the twelfth moon the censorate memorialized for the delegates of the Chihli and other provincial assemblies, Sun Hung-yin and others, asking for the early opening of the national parliament and we have already published a just and sincere, and carefully worded proclamation for the perusal of all officials and people both at Peking and in the Provinces. But yesterday, the censor, Chao Hsi, memorialized charging the ministers with conspiring to gain popularity and involve their sovereign in trouble, and asking that severe punishment might be dealt them.

On reading this memorial we have been astonished. The court has been most zealous in promoting the cause of constitutional government, and expects that the parliament will certainly be assembled at a future time. We are striving to accomplish the result by following a regular order. There must necessarily be a regular program. We have carefully considered all these things with the ministers of the grand council, and have many times asked their advice. They have assisted in all the affairs of State and can not evade responsibility for any merits or faults. These ministers have been the recipients of great favor and they have consciences, and we are sure that they have not planned to put blame on their sovereign. How have such idle rumors been collected? They are slanderous. The memorial is highly improper. This edict is published that all may know.

Minister Calhoun to the Secretary of State.

No. 21.]

AMERICAN LEGATION,
Peking, May 25, 1910.

SIR: I have the honor to transmit to you an interesting memorandum prepared by the Chinese secretary on the Chinese constitutional assembly, with a translation of the regulations governing the same, which have been approved by imperial rescript. As the department is aware, the present measure forms part of the program of constitutional reform which was promulgated in August, 1908.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

MEMORANDUM.

According to the manifesto on the subject of the constitutional reform which was issued by the imperial court in the last year of the reign of the late Emperor Kuanghsü, provincial assemblies (Tsu-i-chü) were to be organized in the Provinces in the year 1909 and the new constitutional assembly was to be opened in 1910.

The purpose of the assembly is to prepare the way for the opening of the regular Parliament in two houses, which is planned according to the original manifesto for the year 1916.

A first draft of rules for the organization of the assembly was drawn up and published in 1908, but the final and complete set of rules was not published until August, 1909, and a translation of these rules is now attached to the memorandum.

With regard to the constitutional assembly the Imperial Government has taken great precautions to guard against hasty action on the part of reformers. Of the 200 members who will constitute the assembly 100 are chosen directly by the Throne, and all of the remaining 100 who are to be chosen by the provincial assemblies must be approved by the governors and governors general of the Provinces concerned before their election can be valid. The general idea of both the provincial assemblies and the constitutional assembly is that of schools for the training of the people in constitutional government, and the full control of the Central Government over both organizations is carefully provided for in the regulations published.

It is still five months before the assembly will convene, but the publication of the names of the members chosen by the Throne on the 10th of May, 1910, has brought the subject of the coming assembly prominently before the minds of the people.

As long ago as September, 1907, Prince Pu Lun, known in America as the prince who represented China at the St. Louis Exposition in 1904, was appointed one of the two presidents of the constitutional assembly, the other being the distinguished Chinese scholar, the grand secretary, Sun Chia-nai, who died in 1909. No successor to Sun Chia-nai has yet been appointed, nor have the vice presidents called for in the regulations yet been appointed.

The names of members of the assembly chosen by the Prince Regent and published on the 10th of May include, as called for in the regulations, 14 imperial princes and nobles, 12 Chinese and Manchu nobles not of the imperial clan, 14 princes and nobles of the outer dependencies, i. e., Mongolia, Tibet, and Mohammedan Chinese Turkestan, 6 imperial clansmen and Gioro (i. e., collateral relatives of the imperial house), and 10 distinguished scholars. The 10 capitalists or "heavy taxpayers" have not yet been chosen. The 32 representatives of the boards were nominated by a special ballot taken in the different boards at Peking last month, in which 160 persons were nominated, although of these the last 61 received only one vote each. The fact that only officials under the third rank were eligible made it certain that no one of prominence could be nominated. The 32 names chosen out of the 160 who were nominated seem to have been taken without any close regard to the number of votes they had received. The different boards are represented as follows: Board of foreign affairs, 5; board of civil appointments, 4; censorate, 4; board of revenue, 3; board of the interior, 3; board of education, 3; board of war, 2; board of dependencies, 2; Hanlin College, 2; board of posts and communications, 1; board of law, 1.

Of the 32 appointed from the Peking boards 8 are Manchus and 2 are Mongols.

The buildings for the constitutional assembly, which are ultimately to be the parliamentary buildings, are now in process of erection on the site of the former literary examination hall in the eastern section of Peking. The contract calls for the completion of the buildings in the seventh moon, two months before the opening of the assembly.

[Inclosure.]

Regulations for the constitutional assembly.

[Translation.]

[Approved by imperial rescript, Hsuan-t'ung, first year, seventh moon, eighth day (Aug. 23, 1909).]

SECTION I.—General principles.

ARTICLE 1. The primary object of the constitutional assembly is to prepare for the organization of the upper and lower houses of Parliament by general discussion as ordered by imperial edict.

ART. 2. The two presidents of the constitutional assembly, who will control all the proceedings of the assembly have been chosen by the Throne from the princes and ministers on the basis of merit and acquaintance with the principles of government.

ART. 3. Vice presidents to the number of two or four to assist the presidents in the management of all the affairs of the assembly will be specially appointed by the Throne from among officials of the third or higher rank and will be chosen for ability and educational attainments.

ART. 4. The members of the assembly will be of two classes—(a) those appointed by the Throne and (b) those elected.

ART. 5. All members of the assembly will have equal powers and privileges in the assembly.

ART. 6. The sessions of the assembly will be of two sorts—(a) regular and (b) special. The regular sessions will be annual and each session will continue for three months. The special sessions will be held at no specified time and will continue for one month.

ART. 7. The times for convening and terminating all sessions will be determined by the Throne and will be published in the Official Gazette.

ART. 8. Sessions of the assembly will be opened by the Emperor in person, or by some high official deputed to act for him, and the questions to be discussed at the session will be announced.

SECTION II.—*Membership.*

ARTICLE 9. Members of the assembly, who must be 30 years or more in age, will be chosen from the following classes:

- (a) Imperial princes and nobles.
- (b) Manchu and Chinese nobles.
- (c) Mongol, Tibetan, and Mohammedan princes and nobles.
- (d) Imperial clansmen and Gioro.
- (e) Officials, fourth to seventh ranks, inclusive, connected with the Peking boards (law and police officials are not eligible).
- (f) Distinguished scholars.
- (g) Heavy taxpayers.
- (h) Members of the provincial assemblies.

ART. 10. The numbers of the different classes of members will be as follows:

- (a) Imperial princes and nobles, 16.
- (b) Manchu and Chinese nobles, 12.
- (c) Mongol, Tibetan, and Mohammedan princes and nobles, 14.
- (d) Imperial clansmen and Gioro, 6.
- (e) Officials of boards, 32.
- (f) Distinguished scholars, 10.
- (g) Heavy taxpayers, 10.
- (h) Members of provincial assemblies, 100.

ART. 11. The appointment of members by imperial choice and election will be as follows:

(a) Imperial princes and nobles, Manchu and Chinese nobles, Tibetan, Mongol, and Mohammedan princes and nobles, imperial clansmen and Gioro, officials of the Peking boards, distinguished scholars, and heavy taxpayers, will be chosen by the Throne.

(b) The members from the provincial assemblies will be elected. After the election the list will be subject to approval of the viceroys and governors, who will send the lists to the constitutional assembly.

ART. 12. Detailed rules governing the appointment both by imperial selection and by election will be separately drawn up.

ART. 13. Members will serve for three years, after which new appointments will be made.

SECTION III.—*Powers of the assembly.*

ARTICLE 14. The matters on which the assembly will be competent to take action will be the following:

- (a) The provisional national budgets.
 - (b) The final national budgets.
 - (c) Taxes and loans.
 - (d) The new code of laws and any alterations that may be proposed to the same.
- But the adoption of constitutional government may not be discussed.

(e) Matters referred to the constitutional assembly by the imperial court.

ART. 15. The questions enumerated above from (a) to (d), inclusive, must be proposed to the Throne by the grand council or by the heads of the boards concerned, and must be referred to the assembly by the Throne, but in respect to (c) taxes and loans and (d) changes in the laws the constitutional assembly may independently draw up proposals.

ART. 16. When the assembly has taken action on any of the matters enumerated in article 14 the presidents and vice presidents of the assembly will notify the grand council or the heads of the boards concerned, who will memorialize, asking for the imperial decision.

SECTION IV.—*The relations between the assembly and executive departments of the Government.*

ARTICLE 17. If the grand council or the heads of boards disagree with the decisions of the assembly they may send them back for reconsideration.

ART. 18. If the assembly refuses to change its decision on any subject sent back for reconsideration, the presidents and vice presidents of the assembly and the grand council or the heads of the boards interested will memorialize, reporting their several opinions for the decision of the Throne.

ART. 19. During the deliberations of the assembly the grand councilors or heads of boards may either attend in person or send representatives to express their views, but they may not vote.

ART. 20. If the assembly requires information concerning any matters in charge of any Government department, or of the grand secretariat, or of the Government council, they must make their inquiries through the presidents and vice presidents of the assembly. If the grand council or the heads of the boards consider that secrecy is necessary, they will explain, giving the reasons therefor.

ART. 21. If the grand councilors or heads of boards encroach on the privileges of the constitutional assembly, or violate the laws, the same will be reported by the presidents and vice presidents of the assembly by memorial to the Throne, asking for the imperial decision. In regard to all the above matters which are to be reported to the Throne by memorial the assembly must express itself by a two-thirds majority of all the members present.

SECTION V.—*The relations between the constitutional assembly and the provincial assemblies.*

ARTICLE 22. Matters relating to the governmental affairs of any province or to the welfare of the people may be referred to the different provincial assemblies for reports through the presidents and vice presidents of the assembly.

ART. 23. All questions in which the provincial assemblies are at variance with the viceroy or governor of the province and questions of dispute between the assemblies of different provinces shall be referred to the constitutional assembly for consideration and the decisions of the assembly shall be communicated to the throne by the presidents and vice presidents, which shall give the final decision. In the discussion of the above-mentioned questions the representatives of the provinces concerned will not take part.

ART. 24. If provincial assemblies have complaints against the viceroy or governor of the province for encroaching on the privileges of the provincial assembly, or for violating the laws, they may refer them to the constitutional assembly, and such matters when they have been carefully investigated will be dealt with as provided in article 21.

ART. 25. Natives of any province who have representations to make on matters affecting the welfare of the whole country may draw up their statements and forward them to the constitutional assembly with the indorsement of some fellow provincial who is a member of the assembly.

ART. 26. The proposals mentioned in the last article must first be handed by the chairman of the assembly to the chief committees for sanction. If there is nothing illegal or disrespectful in them they will be received. After they have been once examined into and either approved or rejected they may not be again presented during the same session of the assembly, nor forwarded to any other place.

ART. 27. If the chiefs of committees acting on proposals sent in by the people decide by a majority vote that they are conformable to law and ought to be adopted, they will enter them on the regular agenda program of the assembly. If they relate to executive government, they shall be forwarded to the yamen concerned.

ART. 28. The constitutional assembly shall not have the right to issue proclamations nor summon persons to attend.

ART. 29. The constitutional assembly shall not interfere in any criminal cases or lawsuits.

SECTION VII.—*Rules of procedure.*

ARTICLE 30. The presidents of the assembly shall act as chairmen, and the vice presidents as vice chairmen will act for them when they are prevented by other business from acting.

ART. 31. The regular sessions of the assembly will be from the first of the ninth moon to the first of the twelfth moon, and this may be lengthened by one month if the pressure of business makes it necessary.

ART. 32. Special sessions of the constitutional assembly may be held in addition to the regular sessions for the discussion of important affairs on the demand of one of the executive departments of the Government, or of the presidents and vice presidents of the assembly, or by a majority vote of the members of the assembly. A memorial must be sent to the Throne, which will summon the special session.

ART. 33. After the assembling of the members they will be divided into committees by lot, and each committee will elect a chairman.

ART. 34. Two-thirds of the total membership will be required to constitute a quorum of the assembly.

ART. 35. A majority of the members present will be required to pass any measure. If the pros and cons are equal the chairman will have the casting vote.

ART. 36. No subject shall be put upon the agenda for discussion unless advocated by over 30 members.

ART. 37. When the budget estimates, laws, or other important subjects are to be discussed the chairman will first refer them to the committee concerned for investigation, after which the discussion will take place.

ART. 38. The presidents and vice presidents will issue a daily bulletin to the members of all subjects to be discussed, and send the same to the executive departments of the Government for their inspection.

ART. 39. When the subject under discussion concerns the interests of a member or of his relatives, or refers to something which his official position prohibits him from discussing, he shall not take part in the debate.

ART. 40. If any member has the personal privilege of memorializing the Throne he may not exercise that privilege in regard to any matter under discussion before the assembly.

ART. 41. Except for crimes committed during the time of the session no member may be arrested except by the consent of the assembly.

ART. 42. Members of the assembly may not be called in question outside the assembly for any of their utterances in debate within the assembly. If they themselves publish outside their views and those views are contrary to law they may be punished according to the law.

ART. 43. Spectators will not be forbidden to attend the meetings of the assembly. In the following cases the members of the assembly must admit a prohibition:

(a) When any executive department of the Government requests that spectators be forbidden to attend.

(b) When the presidents and vice presidents agree that spectators be forbidden to attend.

(c) When more than 30 members request that spectators be forbidden to attend.

ART. 44. Supplementary rules will be drawn up governing the rules of debate, the organization of committees, and the admission of spectators.

ART. 45. Police inspectors and policemen will be appointed who will be under the orders of the chairman of the assembly. The number of such police and the rules under which they will act will be drawn up later.

ART. 46. If any member violates the rules of the assembly in debate he may be forbidden to speak by the chairman. If he refuses obedience he may be expelled. If spectators violate the rules of the assembly they will be expelled by the chairman. If any confusion arises which is sufficient to interrupt the deliberations the chairman may temporarily adjourn the assembly.

ART. 47. If any member repeatedly violates the rules of the assembly or speaks or acts in a violent manner he may be prohibited from attending the assembly. If the matter is serious his name may be struck off the roll.

ART. 48. If members without cause do not reply to the summons to assemble, or after the assembling do not appear after 10 days their names may be dropped from the roll.

ART. 49. If members of the assembly use their position to promote other interests they may be prohibited from attending the assembly, and if the offense is serious their names may be struck off the roll.

ART. 50. A member may be prohibited from attending the assembly for 10 days. If the presidents and vice presidents agree that his name be struck off the roll it may be done on a two-thirds vote of all members present.

ART. 51. If the member whose name ought to be struck off the roll is one of those chosen by the Throne, the presidents and vice presidents shall memorialize requesting the Throne to take action.

ART. 52. For the following causes the assembly may be dissolved by imperial edict:

(a) For overstepping the powers of the assembly.

(b) For passing resolutions which are contrary to the laws.

(c) For disagreement between the assembly and the executive departments of the Government which may make necessary a conference.

(d) When disturbances are raised which the chairman is unable to control the assembly may be suspended for 15 days.

ART. 53. For the following reasons the assembly may be dissolved by imperial edict and a new election called for within 5 months:

(a) For passing resolutions showing contempt for the Throne.

(b) For passing resolutions calculated to disturb the peace of the Empire.

(c) For refusing to obey the order suspending the meetings of the assembly, or for persisting in wrong courses after numerous suspensions.

(d) For failure of a large number of members to respond to the summons to assemble.

SECTION IX.—*Organization of secretariat.*

ARTICLE 54. The assembly shall establish a secretariat, which will be responsible for correspondence, accounts, and keeping all records.

ART. 55. The assembly's secretariat shall have one chief secretary, who shall be a fourth-rank official, and who shall be appointed by the Throne on the recommendation of the presidents and vice presidents.

ART. 56. The assembly's secretariat shall have assistant secretaries of the first, second, and third classes, four of each class. The first-class assistant secretaries shall be officials of the fifth rank, the second-class assistant secretaries shall be of the sixth rank, and the third-class assistant secretaries shall be of the seventh rank, who shall be appointed by the presidents and vice presidents after memorializing the Throne.

ART. 57. The assembly secretariat shall establish a library for the keeping of all the books and records of the assembly. The librarian will be appointed by the chief secretary.

ART. 58. The chief secretary, acting under the instructions of the presidents and vice presidents, will be responsible for all the work of the secretariat.

ART. 59. The assistant secretaries, acting under the instructions of the chief secretary, will be responsible for the detailed work of the different departments of the secretariat.

ART. 60. The bureaus of the secretariat will be four, as follows:

- (a) Bureau of permanent records (Chi Yao K'o).
- (b) Bureau of current business (I Shih K'o).
- (c) Bureau of reporters (Su Chi K'o).
- (d) Bureau of miscellaneous affairs (Shu Wu K'o).

ART. 61. The numbers of writers and reporters to be employed will be determined by the chief secretary in consultation with the presidents and vice presidents after estimating the actual work to be done.

ART. 62. The detailed rules for the conduct of the secretariat will be drawn up by the chief secretary, who will present them to the presidents and vice presidents for approval.

SECTION X.—*Expenses.*

ARTICLE 63. The classification of the expenses of the assembly will be as below:

- (a) Salaries of presidents and vice presidents.
- (b) Salaries and traveling expenses of members.
- (c) Expenses of secretariat and police.
- (d) Miscellaneous expenses and fund for special expenses.

ART. 64. All the expenses under the heads above enumerated will be fixed by imperial edict on memorial.

ART. 65. The expenses of the constitutional assembly will be entered in the estimates of the board of revenue for each year and will be paid over without deduction.

Supplementary articles.

ARTICLE I. After these regulations have received the imperial approval they will be considered to be in force from the first day of the ninth moon of the first year of Hsuan-t'ung (Oct. 14, 1909).

ART. II. As long as these regulations remain in force they will be carried out by the presidents and vice presidents of the assembly, who will memorialize jointly with the grand council.

File No. 1518/430.

Minister Calhoun to the Secretary of State.

No. 49.]

AMERICAN LEGATION,
Peking, July 9, 1910.

SIR: I have the honor to transmit to you for the department's information the translation of a recent imperial edict regarding the second memorial presented soliciting the earlier opening of parliament.

The memorial which had been presented by delegates of the provincial assemblies, chambers of commerce, educational societies, and

Chinese abroad prayed that as a remedy to the existing crisis the period of constitutional preparation be shortened and the date of the opening of parliament hastened.

I have, etc.,

W. J. CALHOUN.

[Inclosure—Translation.]

IMPERIAL EDICTS.

JUNE 27.

We have perused the memorial presented through the medium of the censorate by the members of provincial assemblies and the representatives of the Bannermen of the various provinces praying for the speedy opening of the national assembly. Let it be understood that in the twelfth moon of the last year when the members of the provincial assemblies presented a joint memorandum on the same subject, we distinctly decreed that as soon as the nine years' preparation were completed and the qualifications of the general public were up to the required standard, we would without hesitation issue an edict to fix a date for calling a meeting of the parliament. Every care has been taken by the Throne in the hope that our subjects would not adopt a superficial form and overlook the substantial results to be achieved. Furthermore, we have this year ordered officials to proceed to all the provinces for the purpose of conducting an exhaustive investigation into the various items of the program to be carried out and making an estimate of the necessary expenses connected therewith. In reply to our verbal inquiry to-day the high ministers of the various Yamens assured us that the various items of the program are not yet all carried out in their consecutive order. Being anxious to execute the responsible duties entrusted to us by their late majesties on the one hand, and to comply with the earnest request of the officials and people on the other, we feel that our trouble will only be relieved when a constitution has been established. Such being the case, why should we grudge to grant the opening of a parliament? But it should be borne in mind that while the administration of the Government is important, a constitutional régime will introduce numerous matters on the method of carrying out of which peace or revolution will depend. Recklessness would bring about sorrow, while prudence would result in perfection. With regard to a parliament, it is only one part of a constitutional government, while there are many other important matters essential for its completion. How absurd it would be to assert that perfect peace would at once follow the opening of the parliament. Besides this, the vastness of the Empire, the present financial position and disturbances consequent on disasters, form stumbling blocks to the progress of a constitutional government. Nevertheless, the Throne has never for one moment relaxed its responsibility in the matter, and all the subjects within the Empire should sympathize with our eagerness in aiming at peaceful administration. The opening of the Chicheng Yuan will take place in the ninth moon this year, and members have been selected and ordered to make preparations for the forthcoming meeting, which will form not only the foundation, but initiate the spirit of the reform parliament, provided the members act in harmony and aim at peace with one heart and mind. In pursuance of the scheme of their late majesties we hereby adhere to the system of making constitutional preparations for nine years, at the expiration of which period another decree will be issued fixing a date for a meeting of the parliament. We appreciate perfectly the loyalty of you subjects; but this affair is very important and must be carried out in a methodical manner. The instructions in this decree are very clear. You people shall not memorialize us again on the matter. Let this be published for general information.

File No. 893.00/452.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, November 4, 1910.

Mr. Calhoun reports the issuance of an imperial edict signed by the Prince Regent, the grand council, grand secretariat, and president of the official boards, fixing the year 1913 for the opening of the official

parliament, and stating that a cabinet will be organized previous thereto, and that representatives or agitators who have been in Peking advocating advance of the parliamentary period are ordered to return to their homes, and those who make a disturbance or who further agitate the subject are threatened with punishment.

VISIT OF HIS IMPERIAL HIGHNESS PRINCE TSAI-T'AO TO THE UNITED STATES.

File No. 23640/21.

Chargé Fletcher to the Secretary of State.

[Extract.]

No. 1387.]

AMERICAN LEGATION,
Peking, March 4, 1910.

SIR: I have the honor to report that His Imperial Highness Prince T'ao, brother of the regent, commander of the imperial bodyguard, and chief of the general staff, has received imperial permission to go abroad to investigate military affairs, and will start about the 25th of March on his journey, and I inclose copy of a note from the foreign office informing me of this fact.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

The Prince of Ch'ing to Chargé Fletcher.

No. 677.]

FOREIGN OFFICE,
Peking, March 2, 1910.

YOUR EXCELLENCY: His Imperial Highness T'ao, prince of the third rank, brevet second rank, commander of the imperial bodyguard, president of the military council, has received the imperial permission to go abroad to investigate military affairs, and will start about the middle of the second moon. I send this information, trusting that your excellency will transmit the same to the American Government.

A necessary dispatch.

(SEAL OF THE WAI WU PU.)

File No. 23640.

The Chinese Minister to the Secretary of State.

No. 3.]

IMPERIAL CHINESE LEGATION,
Washington, March 8, 1910.

SIR: I have the honor to inform you that His Imperial Highness Prince Tsai T'ao, brother to His Imperial Highness the Prince Regent of China, is expected to visit the United States in the latter part of April for the purpose of studying the military systems abroad. His stay in the United States will be short. Any courtesies and facilities which the Government of the United States may be able to extend to him so as to render successful his mission to this country will be highly appreciated by the Imperial Government.

Accept, etc.

CHANG YIN TANG.

File No. 23640.

The Secretary of State to the Chinese Minister.

No. 193.]

DEPARTMENT OF STATE,
Washington, March 12, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant informing me that His Imperial Highness Prince Tsai-t'ao, brother of His Imperial Highness the Prince Regent of China, will visit the United States in April of this year on a tour for the purpose of studying military systems abroad; that his stay in the United States will be brief, and that any courtesies and facilities which the Government of the United States may be able to extend to him so as to render successful his mission to this country will be highly appreciated by the Imperial Chinese Government.

In reply I have the honor to say that the American Government learns with much pleasure of the contemplated visit of Prince Tsai-t'ao, and trusts that his imperial highness will consent to be its guest during his stay in this city. In addition to the usual customs courtesies which will be extended to him on his arrival, the President will appoint an officer of the United States Army to receive his imperial highness at San Francisco, who will accompany him to Washington, where he will be received with all the honor and courtesy due to his exalted rank. I venture to hope that his imperial highness will find his visit to the United States a most agreeable one.

A copy of your note has been sent to the Secretary of War, who will undoubtedly make all necessary arrangements to facilitate the inquiries which the prince may desire to make regarding the military system of the United States.

Accept, etc.,

(For Mr. Knox).
HUNTINGTON WILSON.

File No. 23640/25.

Chargé Fletcher to the Secretary of State.

No. 1398.]

AMERICAN LEGATION.
Peking, March 16, 1910.

SIR: In continuation of my number 1387 of March 4, 1910, on the subject of the visit of Prince Tao to the United States at the head of a commission to investigate military affairs, I have the honor to inclose herewith translation of a communication I have received from his highness with reference to his plans, and giving the names of his suite.

I have already telegraphed to the department an outline of the prince's plans and date of his arrival, etc.

I have, etc.,

HENRY P. FLETCHER.

[Inclosure—Translation.]

Prince Tsai-t'ao to Chargé Fletcher.

No. 25.]

PEKING, March 12, 1910.

YOUR EXCELLENCY: I beg to inform your excellency that I have received His Majesty's order to visit the different countries of Europe and America for the purpose of investigating military affairs, as your excellency has already been informed by the board of foreign affairs.

I have now decided to start from Peking on the 20th day of the present moon (March 30, 1910), first proceeding to Japan. On the 6th day of April I shall leave Yokohama by the Ti Yang Wan steamer, going to San Francisco via Honolulu, at which place I would like to go ashore and look about. I purpose to stay in America about 12 or 13 days, and I now send this information to your excellency with the request that your excellency will have the kindness to notify the American Government and the authorities at Honolulu, and the other places on the route of travel.

I inclose a list of the names of the members of my suite.

I avail, etc.,

TSAI-T'AO.

[Subinclosure.]

Members of Prince Tsai-t'ao's Suite.

Lord Li Ching-mai, brevet deputy lieutenant general.
 Ha Hun-chang, councillor to the military reconstruction office.
 Hsü Chih-shan, councillor to the imperial bodyguard.
 Yao Pao-lai, director of a bureau, military reconstruction office.
 P'eng Ts'an-ch'ang, councillor to the naval reconstruction office.
 Liu En-yüan, councillor to the board of war.
 T'ien Hsien-chang, councillor to the imperial bodyguard.
 Chi ang Shao-yüan, secretary, military reconstruction office.
 T'ung-ch'ang, under secretary, military equipment department, imperial bodyguard.
 Wu Wei-yü, medical officer, imperial bodyguard.

File No. 23640/4.

The Chinese Minister to the Secretary of State.

No. 4.]

CHINESE LEGATION,
 Washington, March 16, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, in which you kindly inform me with reference to the coming visit of His Imperial Highness Prince Tsai Tao to the United States, that in addition to the usual customs courtesies which will be extended to him on his arrival, the President will appoint an officer of the United States Army to receive him at San Francisco and accompany him to Washington, where he will be received with all the honor and courtesy due to his exalted rank; that he will be the guest of the American Government during his stay in this city; and that the Secretary of War will make all necessary arrangements to facilitate the inquiries which his imperial highness may desire to make regarding the military system of the United States.

I have lost no time in communicating to my Government the above arrangements for the reception of the prince, which can not fail to be highly gratifying to the Imperial Government.

Accept, etc.,

CHANG YIN TANG.

File No. 23640/14.

The Secretary of State to the Chinese Minister.

No. 196.]

DEPARTMENT OF STATE,
 Washington, April 8, 1910.

SIR: Referring to the correspondence previously exchanged between your legation and this department in regard to the cour-

tesies to be extended to His Imperial Highness Prince Tsai-t'ao whom your Government is sending to study the military system of the United States, I have the honor to inform you that Col. Walter S. Schuyler, United States Army, has been detailed to meet Prince Tsai-t'ao on his arrival in Honolulu and to accompany him until he reaches New York.

Accept, etc.,

(For Mr. Knox).

HUNTINGTON WILSON.

File No. 23640/48.

The Chinese Minister to the Secretary of State.

No. 8.]

CHINESE LEGATION,

Washington, May 16, 1910.

SIR: I am instructed by my Government to convey to you and, through you, to the Government and people of the United States, the warm thanks of the Government and people of China for the hospitalities and courtesies extended to Prince Tsai-t'ao during his stay in the United States. His imperial highness was exceedingly pleased with the results of his mission to this country, and greatly impressed with the friendly feeling everywhere shown by the American people toward China. To the thanks of the Imperial Government he directs me to add those of his own.

Accept, etc.,

CHANG YIN TANG.

File No. 23640/48.

The Secretary of State to the Chinese Minister.

No. 199.]

DEPARTMENT OF STATE,

Washington, May 23, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant by which, under instructions from your Government, you convey to the Government and people of the United States the thanks of the Government and people of China for the hospitalities and courtesies extended to Prince Tsai-t'ao during his stay in the United States.

It gives me great satisfaction to observe from your note that his imperial highness was exceedingly pleased with the result of his mission to this country and greatly impressed with the friendly feeling everywhere shown by the American people toward China, and it is especially gratifying to the President and the officers of this Government that the treatment accorded to his imperial highness during his recent visit to this country was such as to merit so courteous an expression of appreciation on the part of the Imperial Chinese Government.

Accept, etc.,

P. C. KNOX.

File No. 23640/52.

The Chinese Minister to the Secretary of State.

No. 11.]

CHINESE LEGATION,
Washington, August 5, 1910.

SIR: I have the honor to inform you that I have just received a telegram from the Wai-wu-Pu, transmitting to me for delivery a message from His Majesty the Emperor of China to the President of the United States, a translation of which is herewith inclosed. I shall be greatly obliged if you will be so kind as to lay the message before the President.

Accept, etc.,

CHANG YIN TANG.

[Inclosure—Translation.]

The Emperor of China to President Taft.

[Telegram.]

Greeting: Prince Tsai Tao, who has returned from his mission to study the military systems abroad, has given us an account of the generous hospitality and warm reception extended to him by Your Excellency during his recent visit to your country, and also of the special facilities and opportunities everywhere afforded him for making personal observations and obtaining full information in regard to matters pertaining to the military establishment. We sincerely appreciate these friendly and open-hearted courtesies from the American Government, which can not fail to draw closer the relations between the two countries, and for which we beg that Your Excellency will accept our warm thanks.

RIOTS AT CHANG-SHA AND CLAIMS ARISING THEREFROM.

File No. 24074.

Chargé Fletcher to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, April 15, 1910.

Mr. Fletcher reports rioting at Chang-sha on 13th and 14th, and says governor's yamen, two English and one Norwegian mission burned. Adds that foreigners are safe; that foreign office assures him that there is no reason for anxiety; and that three British gunboats are on their way to Chang-sha.

File No. 24074/3.

Vice and Deputy Consul General Baugh to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE GENERAL,
Hankow, April 22, 1910.

Mr. Baugh reports serious disturbances Hunan missions and the destruction of Chang-sha customhouse and business houses. Says missionaries have been summoned from the interior, that foreign war vessels have been dispatched to Chang-sha, and that the legation has been fully informed.

File No. 24074/4.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, April 22, 1910.

Mr. Calhoun, referring to legation's April 15, says Mr. Baugh¹ reported under date of April 20 that Hunan situation had not improved; that it was feared the trouble would spread, and that he had telegraphed Americans to return immediately to Hankow.

Mr. Calhoun says further that he requested Rear Admiral Hubbard on 17th to dispose of naval forces so as to render assistance if necessary, and that he [Hubbard] reported the sailing of the *Cleveland* for Hankow on the 18th to be followed as soon as possible by other vessels.

File No. 24074/8.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, April 30, 1910.

Mr. Calhoun refers to his April 22, and says that Military Attaché Reeves, who is on a tour of inspection has arrived at Hankow, and that the legation has requested him to go to Chang-sha, especially with a view to ascertaining the extent of the damage done to American property.

File No. 24074/9

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, May 1, 1910.

Mr. Calhoun refers to legation's April 22, and says vice consul general at Hankow reports Hunan quiet; says there were no disturbances last week; and that most of the missionaries have left Province.

File No. 493/11a.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, May 5, 1910.

Mr. Calhoun reports the receipt of a dispatch from the consulate general at Hankow, which states that foreigners are being approached in Shangsha by Chinese officials relative to indemnity, and that vice consul general is following example of British and advising Ameri-

¹ Vice and deputy consul general at Hankow.

cans to refer matter to consulate lest individual settlement compromise final one. Mr. Calhoun says the vice consul general wishes to know whether the legation desires these claims sent to Peking or whether consulate is to arrange settlement. Asks instructions on this point, and also wishes to be informed as to department's attitude relative to advising Americans settling individually, without intervention of the legation or consulate, and asks, if claims are submitted to the legation, whether department desires to pass upon them before their presentation to the Government of China.

File No. 24074/11.

The Acting Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 7, 1910.

Referring to legation's April 30 and May 5, Mr. Wilson says the consul general at Hankow should be instructed to advise Americans to file all claims with him for indemnification for Changsa losses, and after careful substantiation the list should be sent to the legation at Peking, and that the legation should forward it to the department for its approval, together with the findings in each case.

Mr. Wilson informs Mr. Calhoun that he may at his discretion inform the Chinese Government that the Government of the United States will expect suitable compensation for losses incurred by American citizens in the riots at Shangsha.

File No. 24074/13.

Minister Calhoun to the Secretary of State.

[Extract.]

No. 16.]

AMERICAN LEGATION,
Peking, May 12, 1910.

SIR: I have the honor to inclose herewith various clippings from the North China Daily News, Peking and Tientsin Times, Japan Daily Mail, Peking Daily News, and the China Tribune on the subject of the recent riots at Chang-sha and throughout the Province of Hunan. I respectfully call the department's especial attention to the leader in the Peking Daily News of April 23, 1910, entitled "The primary cause of the Changsha riots."

I have, etc.,

W. J. CALHOUN.

[Inclosure 1.

THE CHANGSHA RIOTS—DISTURBED CITY IN THE CONTROL OF THE MOB—FOREIGNERS REPORTED SAFE—CUSTOMHOUSE AND ALL FOREIGN PROPERTY DESTROYED.

[P. and T. Times correspondent.]

HANKOW, April 16, 1910.

The unrest in the vicinity of Changsha is increasing daily and unless stern measures are taken at once bids fair to assume great proportions.

Changsha is still in a state of siege and entirely in the hands of the rioters. The local authorities appear to be unable to cope with the situation and foreign assistance is urgently needed in order to protect foreign interests.

It is reported that the governor was wounded at the first outbreak and has since succumbed to his injuries.

Customhouse destroyed.—On Friday night the mob sacked and destroyed the customhouse, though the custom staff was not seriously molested. They took refuge in the customs hulk, which was successfully navigated down the river several li from Changsha, where it was anchored to await outside assistance.

Foreign hongs burned.—The rioters attacked the hulks and godowns of Jardine Matheson & Co., Butterfield & Swire, and others and burned them, after looting all valuable cargo.

In addition they sacked and burned all the foreign property, including a great number of Japanese stores in the city.

Relief handicapped.—H. M. S. *Thistle* attempted to get up to Changsha, but was forced to return to Yochow owing to the low water.

A British shallow draught gunboat, probably the *Snipe*, is proceeding to the disturbed city.

Foreigners safe.—It is definitely known that all the foreign residents have been removed to a place of safety, with the exception of two Americans, who were unable to get out of the city and are believed to be still there.

The cause.—The Chinese officials state the uprising is purely local and neither antifeign nor antidynastic. I learn that it is due to the high prices of the principal commodities.

Official account furnished by the Wai-wu-Pu.—The press bureau of the Wai-wu-Pu has sent the editor of the P. and T. Times the following letter describing the affair:

DEAR SIR: The following is the true and accurate account of the riot in Changsha, Hunan. The telegrams of your correspondent, especially the first one, do not give the correct reasons for the outbreak, which no one regrets more than the Chinese Government and the Chinese people.

It seems that the price of rice has gone up in Hunan in recent months to prohibitive rates, with the result that on Wednesday and Thursday of last week the hungry people gathered together and destroyed the gates of the governor's yamen by setting them on fire.

Unfortunately the mob also directed their fury at the missionary buildings. The governor immediately dispatched troops for the protection of the foreigners and had them removed to safe quarters. No foreigner was injured by the mob.

A telegram received to-day states that the city has returned to its normal state—all the shops have reopened their doors, and complete quiet has been restored. The whole affair was unexpected and seems to have taken place very suddenly.

Thanking you for the insertion of this letter.

[As the above letter is unsigned we give it for what it is worth.—ED.]

[Inclosure 2.]

[North China Daily News, Apr. 20, 1910.]

NOTES ON NATIVE AFFAIRS—THE CHANGSHA RIOTS.

H. E. Chuang Kêng-liang, provincial treasurer in Changsha, has sent a telegram to the Shanghai Taotai, stating that, owing to the dearness of rice the poor people gathered together last Wednesday to create riots, and malcontents aggravated the situation. He states that the governor's yamen was burnt, as well as Christians missions and foreign godowns. A few rioters have been executed and the mobs have dispersed. The governor is well and all consuls, foreigners, and missionaries have been safe under protection. Steps are being taken to arrest the ringleaders for punishment. The telegram goes on to say that the Hupeh troops have arrived, and peace has been restored.

Belated reports say that on Wednesday the rioters gathered together outside the south gate to rob rice, and the police intendant was wounded in trying to maintain order. Malcontents then joined the mob, which numbered about 30,000 men. The troops, instead of defending their stations, fought the rioters and many casualties occurred. Many yamens, shops, and houses have been destroyed and the loss amounted to several millions of taels. It is stated that the new troops were utterly inefficient and were separated in batches, so that they were helpless in maintaining order. Two British gunboats and two Chinese gunboats arrived on Saturday and on the following day 20 Chinese guard boats and two companies of troops arrived. Business was resumed on that day and the people in the city were reassured.

The governor, it is stated, has been dismissed, and H. E. Yang Wen-ting, treasurer of Hupeh, is appointed to act in his place. The Hunan gentry have asked their provincials who are in office in Peking to denounce Governor Tsên Ch'un-ming for provoking the riots by shooting the rioters. A report says that censor Huang Jui-lin has already impeached the governor for precipitating the riots and has urged his severe punishment. The Peking Government has dispatched a deputy to investigate the incident, and the ministry of war and the army advisory council ordered the viceroy in Hupeh to report on the situation from time to time.

A Peking telegram states that the Prince Regent, on receipt of the news, commanded the grand council to order the provincial authorities to take all precaution against further troubles, as the people in Hunan province are turbulent and pugnacious.

[Inclosure 3.]

[China Tribune, Apr. 22, 1910.]

CHANGSHA RIOT.

According to a telegram from Changsha, poor people of the town suddenly rose up in a riot on the evening of the 13th instant on account of the price of rice having gone up. They plundered grain shops, attacked the governor's yamen and the Taching Bank, setting fire to a church and school buildings. On the 14th they burned Jardine Matheson, Butterfield & Swire, Mitsui Co.'s buildings, and the customhouse. The British consul left Hankow with foreign residents by an English ship. At 5 p. m. the Japanese consul, through the advice of the governor, took refuge on the river with 70 Japanese residents. Soon afterwards the consulate and the Japanese post office were pillaged and then reduced to ashes.

Next day the mob cut the telegraph wires. As nothing indicated the immediate subjugation of the rioters the Japanese consul embarked, on the evening of the 15th on the *Hsiangkiang-Maru*, Japanese steamer, that was just going on her upstream voyage, and retreated to Hankow with the Japanese settlers. The steamer arrived at Hankow in the afternoon of the 17th. The refugees had nothing but the clothing on their backs. Japanese residents at Hankow are doing everything in their power to express sympathy for the unfortunate compatriots.

England, France, and Japan have all instructed warships to hurry to the scene of disturbance. The rioters were suppressed on the 16th, and order was somewhat restored.

According to a telegram from Hankow, dated the 19th, three Japanese who stayed behind at Changsha are safe. The building of the China-Japan Steamship Co. escaped destruction.

Peace has been restored in Changsha, but disturbances are created at Hsiang-tan, Ch'iyang, and other local towns. On the 18th the steamer *Yuankiang-Maru* arrived at Changsha from Hankow with two companies of modern troops. The town is quiet, but the local disturbance has not subsided. The British consul and other foreigners are said to have returned to Changsha. Japanese Vice Consul Murayama is expected to return there on the 21st by the warship *Uji*.

[Inclosure 4.]

[The Peking Daily News, Apr. 23, 1910.]

THE PRIMARY CAUSE OF THE CHANGSHA RIOT.

As a result of the recent riot in Hunan an imperial edict was issued on Thursday commanding Tsen Chun-ming to vacate his office and appointing Yang Wenting as acting governor of Hunan. The Government is apparently exerting itself to find out who is to blame for the riot. Report has it also that a certain foreign representative has, on account of the great amount of foreign property that was destroyed by the rioters, made representations to the Wai-wu-Fu demanding that all the local officers who are responsible for the riot should be dealt with severely. Such a representation would be a fair one, no doubt, if the local authorities are really to blame and if the riot should be the actual or approximate consequence of the acts of such officials, or, in other words, if they should be guilty of gross negligence in their official capacity.

The direct cause of a social or political upheaval is necessarily complicated, and is usually obscured by many accidental circumstances. Such is true of the Hunan riot. Foreign journalists, judging by the great number of foreign buildings destroyed incidentally by the rioters, have jumped to the conclusion that the cause of the riot was antiforeignism. To a man who is at all familiar with the condition at present prevailing in Hunan, antiforeignism does not adequately account for this sudden popular (though sectional) uprising in Changsha, but such an ebullition of social feeling, like many instances of similar nature occurring in Europe and America, has for its cause some economical consideration. The economical consideration in the Changsha incident is undeniably the scarcity and dearth of rice. This view, which we maintained in one of our last articles, is supported by documents, official and semiofficial, and the editorial utterances of the Chinese press generally. Our conviction, formed at the time when we wrote our last article, is being confirmed now and again by fuller reports of the unfortunate happening in Hunan.

[Inclosure 5.]

[Japan Daily Mail, Apr. 30, 1910.]

THE CHANGSHA AFFAIRS.

The acting governor of Hunan has addressed to all his colleagues in the provinces a circular which fully explains the origin of the recent disturbances. The explanation is furnished by statements elicited from a man named Chang, who has been apprehended as a ringleader. It appears that in March Chang entered into communication with certain Boxer (Ihochuan) leaders in the province of Shantung, and in the sequel of conference with them he went to Hsiantan, where 24 "bluecoats" were congregated. This body of men repaired in small sections to various places in Hunan with the deliberate object of fomenting disturbance. They found the people considerably excited by want of food, and they fomented this excitement until it took the form of open riot. It was by these "bluecoats" that the rioters were led to the destruction of churches, offices, and other buildings. Acting Governor Yang explains that his motive in sending this circular is to warn his colleagues in other provinces, as it is more than probable that similar outrages may be attempted elsewhere by similar machinations on the part of Boxer leaders. In fact, this Changsha disturbance is definitely traced to Shangtung, the original provenance of these inquiet spirits, and it is to be hoped that drastic measures will now be adopted to destroy this hotbed of antidynastic and antiforeign commotion.

The Hunanese residing in Mukden have addressed to the local assembly of their native province a memorial urging that the assembly meet at once for the purpose of discussing the recent riots. The memorialists lay the whole blame on the shoulders of officialdom, and insist that no indemnity shall be levied from the people, since these have not been in fault. They affirm that the object of levying a tax upon rice is to form a fund for investment in supplies of that grain which shall be available in times of distress. But nobody knows what becomes of the proceeds of the tax. Apparently they go into the pockets of officialdom and are thus useless in a season of famine like the present. The memorial contains other matter, but its gist may be summed up by saying that it is an outspoken impeachment of the provincial officials, and that it urges the local assembly to take steps for procuring their punishment. It is precisely owing to the probability of such developments as this that foreign onlookers have been disposed to predict a disturbed outcome of the early stage of constitutional government in China.

File No. 493, 11a/14.

Minister Calhoun to the Secretary of State.

[Extract.]

No. 17.]

AMERICAN LEGATION,
Peking, May 12, 1910.

SIR: Referring to department's telegraphic instructions of May 7 regarding the presentation of claims by American citizens for indemnification for losses incurred at Changsha, I have the honor to inclose herewith for your information my letter of instruction to the consulate general at Hankow on this matter.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

Minister Calhoun to Vice Consul General Baugh.

No. 36 (Cons.)]

AMERICAN LEGATION,
Peking, May 12, 1910.

SIR: Replying to your dispatch, No. 469, of the 5th instant, asking for advice as to what may properly be included in claims for losses incurred in the recent disturbances at Changsha, I would say that although the ultimate decision will, of course, rest with the Department of State, it is not deemed advisable that any save claims for direct damages actually sustained be presented. In other words, the actual value of the prop-

erty destroyed should be the basis upon which such calculations ought properly to be made. It is especially desired by the legation that our nationals should confine their claims within strictly legitimate bounds, and I will request you to substantiate so far as you may be able all that may be presented to you before transmitting the same to the legation.

I am, etc.,

W. J. CALHOUN.

File No. 24074/21.

Minister Calhoun to the Secretary of State.

No. 33.]

AMERICAN LEGATION,
Peking, June 9, 1910.

SIR: I have the honor to transmit to you for the information of the department certain copies of the correspondence lately received by the legation with reference to the recent disturbances at Changsha.

The first (inclosures Nos. 1 and 2) contains an exchange of notes with the Wai-wu-Pu relating to the question of damages for property destroyed. The effort of the Chinese Government appears to be directed toward making local settlements and holding the Province of Hunan responsible for the losses; from Capt. Reeves's report it would seem as if the Hunan gentry were quite willing to pay for the damages done.

I have, etc.,

W. J. CALHOUN.

[Inclosure 1—Translation.]

The Prince of Ch'ing to Minister Calhoun.

FOREIGN OFFICE,
Peking, June 1, 1910.

YOUR EXCELLENCY: Since the famine riots of Changsha we have received many telegrams from the viceroy of the Hukuang and the governor of Hunan stating that they have urged the British and Japanese consuls to order the merchants to send in statements of their losses so that settlements may be made. French, German, American, and Norwegian missions have been destroyed, and since these countries have no consuls at Changsha, the Hankow taotai has been directed to communicate with the consuls of these countries at Hankow to ask them to order the missionaries to send in their statements so that arrangements for settlement may be made. The viceroy and governor wish us to communicate with your excellency asking that instructions may be sent to the Hankow consul to make a settlement with the governor of Hunan.

More than a month has now elapsed since the riots. The provincial authorities have already appointed a deputy to investigate the amount of the damage and loss sustained by the merchants and missionaries, and it is desirable that a settlement should be made at an early date to avoid protracted anxiety. We therefore now address your excellency, asking your excellency to instruct the American consul at Hankow to order that careful estimates be sent in so that the consul may make a speedy settlement with the governor of Hunan. This is a matter of great importance, and we trust that your excellency will give us a reply.

A necessary dispatch.

(SEAL OF THE WAI-WU-PU.)

[Inclosure 2.]

Minister Calhoun to the Prince of Ch'ing.

AMERICAN LEGATION,
Peking, June 2, 1910.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your highness's note of the 1st of June, 1910, in which I am requested to instruct the American consul at Hankow to order American merchants and missionaries to send him

estimates of their losses in the recent riots at Changsha, so that he may make a settlement with the governor of Hunan.

I have sent telegraphic instructions to the American consul at Hankow to direct the Americans who have suffered loss in Hunan Province to hand in their claims to him. When all the claims have been received by the consul he will forward them to me for inspection and approval before taking any further action.

I avail myself of the opportunity to renew to your highness the assurance of my highest consideration.

W. J. CALHOUN.

[Inclosure 3.—Translation.]

IMPERIAL EDICT ISSUED MAY 31, 1910.

The board of civil appointments memorializes, reporting, as instructed, in two separate memorials, on the punishments to be inflicted on the Hunan officials and gentry. The governor, Ts'en Ch'un-ming, and the provincial treasurer, Chuang Keng-liang, who have already vacated their posts, are to be stripped of their rank. The provincial judge, Chou Ju-ch'ien, and the Changsha prefect, Wang Feng-ying, should be punished by being degraded three steps and left at their posts. The former libationer of the Imperial Academy, Wang Hsien-ch'ien, and the expectant Taot'ai, K'ung Hsien-chiao, will be degraded five steps and transferred, as recommended by the board.

[Inclosure 4.—Translation.]

The Prince of Ch'ing to Mr. Calhoun.

FOREIGN OFFICE,
Peking, May 28, 1910.

YOUR EXCELLENCY: An imperial edict was issued on the 19th day of the 4th moon (May 27, 1910) as follows:

In obedience to the imperial order Jui Ch'eng, acting viceroy of Hukuang, and Yang Wen-ting, acting governor of Hunan, have memorialized on the disturbances created in Hunan by rebels taking advantage of the scarcity of food, and on the mismanagement of the civil and military authorities. It appears that upon this occasion of the uprising of the people the civil and military authorities of Changsha were careless about taking precautionary measures, and when the trouble occurred they failed to take the proper action. So they are to blame. The governor of Hunan, Ts'en Ch'un-ming, has already been cashiered and turned over to the board concerned for punishment, and also the police Taot'ai, Lai Ch'eng-yü, was hasty and biased; he stirred up strife and fomented trouble. The Chang Pao Salt Taot'ai, Chu-Yen-hsi, was weak and resourceless. The Changsha regimental commander, Su Kuei-ling; the captain of the left camp, Chou Ch'ang T'ai; the director of the Hsiao Fang So, Maj. Kung P'ei-lin; and the police deputy, district magistrate, Chou T'eng, were all inefficient in affording protection, and have all been cashiered.

The provincial treasurer, Chuang Kengliang, failed to take precautionary measures, and is cashiered and is turned over to the board concerned for punishment. The provincial judge, Chou Ju-ch'ien; the prefect of Changsha, Wang Feng-ying; the district magistrate of Changsha, Yü Ping-yuan; the district magistrate of Shan Hua, Kuo Chung-huang, were responsible for local administration and can not escape blame, but as their reputation has been generally good, and as they have shown ability in the measures taken since the troubles, Chou Ju-ch'ien and Wang Feng-ying are handed over to the board concerned for investigation. Yü Ping-yuan and Kuo-Chung-huang are degraded but left at their posts. The acting brigade commander, Yang Ming-yuan, who has acted efficiently in arresting rioters, is deprived of his button and ordered to show zeal in arresting the rioters, to show if he is worthy. All other matters are to be acted on as recommended, and the boards concerned will take note.

On the same day another imperial edict was issued as follows:

Jui Ch'eng has memorialized impeaching members of the gentry for fomenting trouble and asking that they may be severely punished. He states that the gentry were formerly urged to contribute toward a distribution of grain, but that Wang Hsien-ch'ien, one of the Hunan gentry, opposed it and prevented the plan from being carried out. Then after the troubles he put the blame on the governor as the one who had irritated the people, and telegraphed asking his removal, thus showing himself totally lacking in a sense of propriety. K'ung Hsien-chiao and Yang Kung put forward the provincial treasurer and tried to ruin the governor, working with great persistency. This Yang Kung is an official who was formerly impeached and who afterwards in an underhanded manner bought himself rank as an expectant Taot'ai, and is a man of thoroughly bad character.

Yeh Te-hui took advantage of the dearth of rice to store over 10,000 piculs, and refused to sell at a low price, and is clearly one of the men "rich but without virtue" (Confucius).

We order that the former librarian of the Imperial Academy, Wang Hsien-ch'ien, and the expectant Taot'ai, K'ung Hsien-chiao, be turned over to the board concerned to be severely dealt with, and that the second class assistant secretary of the board of civil appointments, Yeh Te-hui, and the expectant Taot'ai, Yang Kung, be stripped of their rank and turned over to their local authorities to be strictly governed. The other proposals shall be carried out as suggested. Let the board concerned take note.

On the same day another imperial edict was issued as follows:

Jui Ch'eng and Yang Wen-ting have memorialized as to the measures to be taken in pacification after the disturbances. On this occasion, although the disturbances in Hunan were due to the high price of rice, and so the distribution of rice must be the first measure, yet disorderly people and robbers took advantage

of the occasion to create trouble, and if they are not severely dealt with, full control can not be regained. Besides executing summarily and on trial the rioters, all who are arrested later must be severely dealt with, making due distinction between leaders and accomplices, so as to strike terror into the hearts of the malefactors. The peaceable people must be assisted, so that they may not lose their homes. Let all these measures be taken as proposed, so as to prevent further calamities.

The above edicts are reverently transcribed and forwarded for your excellency's perusal.

A necessary dispatch.

[SEAL OF THE WAI WU PU.]

File No. 24074/22.

Minister Calhoun to the Secretary of State.

[Extract.]

AMERICAN LEGATION,
Peking, June 16, 1910.

SIR: I have the honor to refer to my dispatch No. 16, of May 12 last, on the subject of the riots at Changsha and the present conditions of unrest prevalent throughout the Yangtse Basin and to inclose for your information various newspaper clippings from the North China Daily News and the Peking Daily News in regard to the situation in the Central Provinces.

The department's attention is respectfully called to the clipping from the North China Daily News of May 13, 1910, entitled "Analysis of the Riots," from which it would appear that the outbreak changed in character after the first day's rioting. It was first the outbreak of a hungry mob, which subsequently became an organized attack upon foreign property.

I have, etc.,

W. J. CALHOUN.

[Inclosure.]

[North China Daily News, May 5, 1910—Changsha (Hupeh)—From our own correspondent.]

ANALYSIS OF THE RIOTS.

A few days' residence in the city has enabled one to take stock and think out some of the causes that have been at work to produce the havoc that is visible, dotted about in every quarter of the city and in every suburb but one (the east). There is much to learn from the various buildings that have not been destroyed, as well as from the different kinds of destruction which have been dealt out to different classes of building. Three kinds of distinction can now be clearly made. First, the difference between the looting that occurred on the first night of the riot and that of the two following days and nights; second, the difference between the treatment of property that foreigners had rented and that which they had purchased; third, the difference between the treatment of foreign-style property in which the Changsha gentry had monetary interest and that in which they had none.

One compound only is left with the mark of merely the Wednesday night riot. Everything else that has been destroyed has either been revisited or was visited for the first time on the Thursday or Friday. The Wesleyan Methodist Mission in the Hai-ch'ang Kai (Long West Street) was perhaps the very first mission to be attacked. The mob after passing the mission and insisting on its doors being opened had tasted the pleasure of hearing glass break and doors smash at the Imperial Bank a few doors away. Then, having forced open the doors, they made no attempt to touch the treasure (which was very large), but just returned to the mission and enjoyed themselves for an hour or two.

If that mission alone had been attacked the mob might have earned all the epithets for destructiveness that the English language possesses. They acquitted themselves in a way that would earn the commendation of their teachers and masters in the art of rioting, whoever these might be. But now, when the compound is compared with all the other looted places, the unfortunate missionaries get no commiseration whatever. They are laughingly told to realize how well off they are. The bookcases show the marks of fire and hatchet, but the books are left with a mere shaking. The

desks were smashed up and burnt, but the private and mission check books, ledgers, etc., which were in them are all safe and sound. Pictures and ornaments, doors and windows, and most of the chairs were thrown on the bonfire which the mob began to make in one of the rooms, but which for the sake of their companions in the upper story they transferred bodily, on the carpet on which it had been kindled, to the lawn in front. But the fabric of the house as a whole is uninjured. So with the chapel; the lamps and all the windows, most of the benches, and all the ornamental texts are done for, but the building will be ready for use again as soon as the new wood-work is painted.

In all other looted missions there is practically nothing left to mend. Not only were the backs of books broken, the pages were torn up one by one. In most cases the fragments of the buildings that remain must be pulled down—and this even when they have not been fired.

In other words, on Wednesday night there was a hungry mob that had a grievance and had no recognized leader. On Thursday there were leaders and the program was distinctly marked out beforehand. The stores of oil at the Standard and Asiatic oil companies' warehouses were not burnt in situ; they were taken with proper precautions, and were used with deliberate effect in the 16 different fires that were kindled in as many different sites in or around the city.

Next, there was a distinction made between property that had been rented and property that had been purchased by foreigners. To understand this distinction it is necessary to recall a few of the events of the past few years. It is doubtful whether a single case of land purchase by missionaries or merchants has been put through during those years without some amount of friction. The provincial assembly has gone to the extreme of officially advertising in the daily press a warning to land or house holders not to sell to foreigners. They even particularized the neighborhood in which the officials propose to make the settlement as being one in which there was to be no such sales. The Changsha hsi en has been using a special book for indorsing ordinary deeds of sale between Chinese and Chinese, which states that if the land mentioned in the deed be hereafter sold to foreign merchants or missionaries the deed thereby becomes null and the land ipso facto reverts to the previous owner. There are eight pieces of property in the occupation of foreigners that have escaped the riot. Seven out of the eight are rented places.

Only one is the purchased property of the mission occupying it. The street in which that building stands was well posted with a rhyming announcement to pacify the rioters.

File No. 24074/14.

The Acting Secretary of State to Minister Calhoun.

No. 32.]

DEPARTMENT OF STATE,
Washington, June 29, 1910.

SIR: The department is in receipt of your dispatch No. 17, of May 12 last, inclosing copy of the legation's instruction of the same day to the consulate general at Hankow as to what may properly be included in claims for losses incurred in the recent riots at Changsha; also an article from the North China Daily News on the subject.

Your instruction to the consulate general has the department's approval.

I am, etc.,

HUNTINGTON WILSON.

File No. 493.11A/5.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, October 15, 1910.

Mr. Calhoun says the Wai-wu Pu has once more requested that the consul general at Hankow be given power to negotiate a settlement of the Changsha claims, and says in view of the fact that this

has been repeatedly urged and as all claims have long since been filed, suggests that local settlement be effected through the consul general if the claims meet with the approval of the department.

File No. 493.11A/5.

The Acting Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 15, 1910.

Referring to legation's telegram of October 15, Mr. Adee says the department awaits report of the legation on the Changsha claims, the only detailed report that has been received being a carbon copy of dispatch of June 29, 1910, from the consul general at Hankow to the legation. Mr. Adee says if this dispatch submits all claims, and if the legation approves them and has so reported to the department, he may instruct the consul general at Hankow to negotiate a settlement accordingly and to advise the Wai-wu-Pu in this sense.

File No. 493.11A/6.

Minister Calhoun to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Peking, October 16, 1910.

Mr. Calhoun says report from consul general at Hankow includes all claims, unless the revised claim of Standard Oil Co. sent September 13. Says there are two questions involved in the claims: 1. Reasonableness of damages claimed. 2. The right to claims for loss sustained by native servants. The first question, Mr. Calhoun says, can be decided by the consul general in the negotiations for settlement, but that the second is regarded as one of precedent or policy, and department is expected to decide it. Recommends that consul at Hankow be instructed to effect a settlement on equitable terms.

File No. 493.11a/6a.

The Secretary of State to Minister Calhoun.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 22, 1910.

Referring to legation's, October 16, Mr. Knox says revised claims of Standard Oil Co. have not been received. Says, however, if they have Mr. Calhoun's approval, that department agrees to his recommendation and he may so instruct consul general. Says the inclusion of losses suffered by native servants is justified by precedent which was set in Boxer trouble settlements, but that the United States will not insist upon their inclusion if they are omitted from claims of other powers.

THE WHANGPOO RIVER CONSERVANCY SCHEME.

[Continued from Foreign Relations, 1909, p. 70, et seq.]

File No. 1571/31.

Minister Calhoun to the Secretary of State.

No. 43.]

AMERICAN LEGATION,
Peking, June 23, 1910.

SIR: I have the honor to refer to Mr. Fletcher's dispatch No. 1288, dated November 10, 1909,¹ on the subject of the Whangpoo conservancy, and to inclose herewith for your information a copy of the reply made on December 14 last, by the dean of the diplomatic body to the Wai-wu Pu's note of October 26, 1909, a copy in translation of which was forwarded with Mr. Fletcher's dispatch mentioned above. The department will note that the foreign representatives not only refused to acquiesce in the claim of the Wai-wu-Pu that "China has met all her obligations under the special Whangpoo conservancy agreement and other nations should not have any criticisms to make," but also unequivocally stated their determination to hold China to the provisions of the final protocol of 1901.

As predicted by Mr. Fletcher in his No. 1301 of November 23, 1909,² the dredging work was resumed on November 25 with the aid of the 300,000 taels furnished by the Imperial Government in accordance with the promise contained in their letter of October 16 to the dean. (Vide Mr. Fletcher's No. 1288.)

In January it became common knowledge in Shanghai that the imperial high commissioner, Viceroy Jui Cheng, together with Viceroy Chang Jenchun, had memorialized the Wai-wu-Pu to inform the foreign powers that China "was neither willing nor obliged to spend further money on the conservancy work." The Shanghai General Chamber of Commerce formally protested to the consular body and requested that the matter be brought to the attention of the diplomatic body. I inclose a copy of the chamber's letter of protest to the consular dean.

In view of the fact that the main features of the conservancy work—namely, the closing of the ship channel and the opening of the Astrea channel—would probably be completed by next September, and further considering that the money in hand is nearly exhausted and no definite arrangement has as yet been made for obtaining the necessary funds for finishing the whole conservancy scheme, which included de Rijke's plans for the removal of Pheasant and Pootung Points as well as work on the upper reaches of the river, the conservancy board deemed it advisable for the sake of economy to give M. de Rijke notice of the termination of his engagement on November 30 next, six months before the expiration of his contract, the directors of the board being of the opinion that the work of maintenance of the Astrea channel could safely be intrusted to a junior engineer. Upon being informed of the action of the conservancy board, the dean of the consular body made a strong protest and requested that the letter of dismissal be withdrawn. A similar protest was made by the chamber of commerce to the consular body. Copies of the various letters concerning M. de Rijke's dismissal were

¹ See Foreign Relations, 1909, p. 86.² See Foreign Relations, 1909, p. 89.

forwarded by the consul dean to the dean of the diplomatic body, copies of which are respectfully forwarded herewith.

At a recent meeting of the diplomatic representatives of the respective Governments directly interested in the project—i. e., Great Britain, Germany, France, the Netherlands, and the United States—a general discussion of the situation was had. The suggestion was received with favor, that doubtless the adverse attitude of the Chinese authorities toward the continuation of the work was in part influenced by the want of money, and that foreign interests would have to take into consideration some method for providing the money if the work was to be continued, especially so if it is to be continued under the protocol of 1901.

The further suggestion was made that the diplomatic representatives were without information as to just how much of the work had been completed, how much remained to be done, and particularly as to how far the unfinished work was essential to the protection of what had been done, and to the realization of the benefits originally contemplated. To obtain this information expert investigation and advice was necessary, and such service was not within the command of the diplomatic representatives.

It was also stated that, at the instance of the Shanghai commercial interests, a survey of the work done had been made, and a report as to the same, including soundings and other data, had been furnished some expert consulting engineers in London, with a view of obtaining their opinion as to both the efficiency and sufficiency of the work done, and what, if anything, was necessary to be further done. It was stated that a report from the London engineers could not be expected until some time in the fall.

It was also stated that the Imperial Government had some kind of a report from the imperial high commissioner upon the subject, the nature and extent of which were not known. For the information of the diplomatic representatives it was decided that the dean should again address a note [copy inclosed] to the Imperial Government with a special view of obtaining a copy of the report aforesaid and that the intention of the Imperial Government might be ascertained.

In this same connection I beg to report that the dean, in a private conversation I had with him, expressed the opinion that the powers interested would doubtless have to take some affirmative action to have the work continued, either under Chinese administration, or under the administration originally contemplated by the protocol of 1901. Also that in either contingency some steps would have to be taken by foreign cooperation to raise the additional money required. He asked me what authority I had, if any, to confer with our colleagues directly interested, with a view of reaching some agreement on the subject. Having in mind the last instruction on the subject received by this legation from the department—to wit, the department's instruction, Serial No. 658, dated November 2, 1909¹—I said I might join in such a conference for the consideration of a proposition to raise money for the imposition of a surtax upon riparian lands, trade, and navigation, but not upon commerce. I beg to inquire if there is any objection to my joining in such a conference

¹ See Foreign Relations, 1909, p. 86.

for the consideration of devising plans to raise money, provided that such plans shall only be tentative and must be first submitted to the department for approval before becoming operative, etc.

I have, etc.,

W. J. CALHOUN.

[Inclosure 1—Translation.]

The dean of the diplomatic body to the Prince of Ch'ing.

PEKING, December 14, 1909.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your highness's note of October 26 last, on the subject of the work of correcting and conserving the Whangpoo. I did not fail to communicate this note to the chiefs of mission at Peking.

The latter have not thought it possible under the circumstances for them to adopt the point of view of the Imperial Chinese Government. The representatives of the powers have, in fact, decided that so long as the work on the Whangpoo is not complete to the extent and within the limits provided in the final protocol of 1901, they can not consider that the Chinese Government is absolved from the obligations to which it is bound.

My colleagues have accordingly requested me to inform your highness of the impossibility of acquiescing in the statements which I have transmitted to them.

I seize, etc.,

[Inclosure 2.]

Chairman of the Shanghai General Chamber of Commerce to the senior consul.

No. 2077.]

SHANGHAI CHAMBER OF COMMERCE,
Shanghai, January 17, 1910.

SIR: I have the honor to draw the attention of the consular body to a statement published in the North China Daily News of the 3d instant to the effect that Viceroy Jui Cheng, who was appointed high commissioner for the Huangpu conservancy, has given orders to the conservancy board not to close any further contracts beyond the amounts so far granted, including the 300,000 taels which were lately placed at the disposal of the board, and further that with Viceroy Chang Jen-chun the Wai-wu-Pu has been memorialized to communicate to the foreign ministers that China is neither willing nor obliged to spend further money on the conservancy work.

This question was discussed by my committee at their meeting held on the 10th instant, when it was decided to request you to make urgent representations to the diplomatic corps at Peking with a view to their taking prompt measures to insure the carrying out of the work for permanently conserving the river.

My committee also desire to point out that the viceroy seems to have overlooked the convention of the 27th September, 1905, by memorializing "that China is neither willing nor obliged to spend further money."

In conclusion I would like to state that the engineers engaged by the chamber to report on the conservancy work are due to arrive early in February, but in the meantime my committee view with anxiety a trend of events which points to the possibility of a prolonged stoppage of the work and to the further disregard of the treaty obligations by which China is bound.

I have, etc.,

WILLIAM D. LITTLE.

[Inclosure 3.]

Secretary Carruthers, of Whangpoo Conservancy Board, to Consul Siffert, dean of the consular body.

OFFICE OF THE WHANGPOO CONSERVANCY BOARD,
Shanghai, May 19, 1910.

SIR: By direction of the conservancy board, I inclose copy of a letter addressed to the engineer in chief of the board, Mr. J. de Rijke, giving notice of the termination of his engagement from the 30th of November, 1910.

I am further instructed to say that plans for the completion and maintenance of river improvement are being prepared, particulars of which will be forwarded to you for the information of the consular body as soon as possible.

I have, etc.,

A. G. H. CARRUTHERS.

[Subinclosure.]

Directors of the Whangpoo Conservancy Board to Mr. de Rijke.

SHANGHAI, May 17, 1910.

SIR: The main parts of the conservancy work are expected to be finished by the end of September this year and work carried on after that time will be principally in the way of maintenance and preservation rather than in the way of extension. Considering that the simpler work of maintenance can safely be carried on under the direction of an engineer of less conspicuous attainments than those which have been fortunately at the board's disposal in planning and carrying out the principal conservancy scheme, and considering further that the funds appropriated for conservancy work are nearly exhausted and that no fixed source of further income has as yet been provided for, the directors of the conservancy board have decided that it is advisable, for the sake of economy, to terminate your engagement as engineer in chief.

You are accordingly notified that on the 30th of November, 1910, being six months after the end of the present month, your appointment as engineer in chief of the Whangpoo Conservancy will cease.

The board takes this occasion to assure you of its high appreciation of the invaluable services you have rendered, and repeats that it is solely on account of the less important nature of the work still to be done, and for the sake of necessary economy, that it has decided to dispense with your services.

We have, etc.,

TS'AI NAI-HUANG.
H. F. MERRILL.

[Inclosure 4.]

Chairman of the Shanghai General Chamber of Commerce to the Senior Consul.

SHANGHAI GENERAL CHAMBER OF COMMERCE,
Shanghai, May 31, 1910.

SIR: The committee of this chamber learn with regret that the conservancy board have notified Mr. de Rijke that his appointment as engineer in chief of the board will terminate on the 30th November next.

In view of the present state of the river, with the various works shown in the plan not completed, and a considerable part not commenced, I have the honor on behalf of this chamber to protest most strongly against so early a termination of Mr. de Rijke's agreement.

I would therefore be obliged if the consular body would give this protest their support and press for the withdrawal of the conservancy board's letter.

I have, etc.,

DAVID LANDALE.

[Inclosure 5.]

The Senior Consul to the Directors of the Whangpoo Conservancy Board.

SHANGHAI, June 8, 1910.

GENTLEMEN: I have the honor to acknowledge the receipt of your letter of the 19th ultimo, with a copy of your letter to Mr. de Rijke, engineer in chief, giving notice of the termination of his engagement from the 30th of November, 1910.

In reply I beg to remark—first, that by virtue of its own clause, this contract holds good till the month of June, 1911; further, that it would be extremely prejudicial to the interests of the port to dispense with the present engineer in chief's services as long as the various works contemplated are not completed and the maintenance of the good results obtained is not secured.

I am therefore directed to protest most strongly against Mr. de Rijke's proposed dismissal, and to request that you will withdraw the above-mentioned letter.

I have, etc.,

D. SIFFERT.

[Inclosure 6.]

The Dean of the Diplomatic Body to the Prince of Ch'ing.

PEKING.

YOUR HIGHNESS: In my letter of December 14 last I had the honor to inform your highness in the name of the diplomatic body that the representatives of the powers were of the opinion that "as long as the conservancy work of the Whangpoo River remained unfinished to the extent and within the limits of the final protocol of 1901 the Government of China could not be considered as freed from the obligations which it had assumed." My colleagues, consequently, reserved the right to return to the question at the proper time.

The diplomatic body calls to mind that the Imperial Government has always declared that it had the continuance of the work on the Whangpoo as much at heart as the foreigners, and that its intention, repeatedly affirmed, was to do everything to conserve the works which had already been achieved. The Imperial Government, however, has not expressed its opinion of the manner in which it considers that these works, which evidently are as yet incomplete, should be finished; nor has it indicated from what source it will secure the sums necessary for the continuance of the work and the maintenance of the whole. The Chinese Government has declared in its letter of ——— that it will furnish 300,000 taels for carrying out the new dredging contract. This sum is at the present moment exhausted, or at least will be so very shortly. Hence arises a situation in which the diplomatic body is constrained to take an interest.

The representatives of the powers have learned that the Imperial Government had entrusted the study of the question of the Whangpoo to a special commissioner, who obtained the services of a European expert. The report of this commissioner must certainly be to-day in the hands of the administration at Peking. My colleagues have thought that the simplest way for them to learn the intention of the Government of China would be to have this report communicated to them or be informed of its contents in detail. They have, therefore, charged me to request your highness to be so good as to give them a copy of this document or make it possible for them to take cognizance of it. The diplomatic body hopes that in this way it will be possible to arrive at an equitable understanding which will equally safeguard both foreign interests and those of the Imperial Government of China.

Minister Calhoun to the Secretary of State.

[Extract.]

No. 60.]

AMERICAN LEGATION,
Peking, August 4, 1910.

SIR: Referring to my dispatch No. 43 of June 23 last, I have the honor to inclose for the information of the department the copies of memoranda ¹ on the Whangpoo conservancy work by Mr. de Rijke, the engineer in charge of the works; by Mr. Merrill, an American in the customs service, who has been a director of the conservancy board, and also a memorial ¹ of the viceroys of Nanking and Wuchang on the same subject.

It is now unnecessary to enter into the history of this work. The department remembers the circumstances which induced the Chinese Government to take it on itself and provide the necessary funds for such purpose. The amount originally estimated was so provided and has been actually spent. But it is more doubtful if the work is satisfactorily completed and if, without further efforts, the channel will not again be silted up. According to the opinion expressed by Mr. Merrill, which may be called the native view of the case, the Chinese Government has amply fulfilled its pledges and the work has been carried to a satisfactory conclusion. A further sum, it is true,

¹ Not printed.

estimated by him at 300,000 taels, will annually be required to keep open the channel. But its maintenance is not incumbent on the Imperial Government, and in his view it is proper that local shipping and commerce should be taxed for the upkeep of the same.

The other opinion, representing the foreign interests at Shanghai, is that as the Chinese Government assumed the responsibility for the necessary improvements, it must be held to the strict terms of the protocol of 1900, which provided for the completion of the work. The engineer in charge, Mr. de Rijke, estimated that as much more money will be necessary as has already been spent, approximately 10,000,000 taels, and it rests with the Imperial Government to carry the work to a satisfactory termination.

The matter has reached the diplomatic body, but its proper consideration here, in the absence of competent engineering advice, is difficult, nor are means at its disposal to obtain the same. The British Chamber of Commerce, it is true, has sent the measurements of the recent works to a consulting engineer in London and something may perhaps be expected from his report. But in the meantime the situation remains confused and complicated. If I have written about it at this juncture it is rather with a view to an expression of the policy the department desires me to follow with my colleagues in considering this matter.

Apart from its technical aspects, the present question resolves itself into a contention between the Chinese Government and the foreign commercial interests at Shanghai as represented here by their respective legations; and, as in most disputes, there is apparently a measure of justice on both sides. But whatever may be the outcome it is apparent that further expenditure will be necessary, whether for the completion or for the maintenance of the work. This money will probably be raised in whole or in part from a tax on foreign commerce and shipping at Shanghai (vide the department's instruction No. 658), and the outlay will be supervised in all likelihood by a board on which at least one foreigner will be represented.

While I understand that there is a general disposition on the part of the interested powers to accept some form of local taxation for the projected improvements which still remain to be effected, the point is as to how far the Imperial Government ought to contribute thereto. Even though the benefit would ultimately be common to the Empire, it is doubtful if this is appreciated by native opinion and any pressure brought to bear on the Chinese to secure fresh revenue might easily provoke further expressions of antforeign feeling. This would not necessarily be a deterrent, but it remains to be considered in connection with the stand we should take, either in accepting or refusing local taxation as well as in other incidental affairs. The question, therefore, presents itself as to what should be our attitude in these matters, as they will come up for consideration before the diplomatic body.

I would greatly appreciate an expression of the department's views as to the policy in this and in analogous matters which it desires me to pursue.

I have, etc.,

W. J. CALHOUN.

File No. 893.811/31.

*The Acting Secretary of State to Minister Calhoun.*DEPARTMENT OF STATE,
Washington, August 17, 1910.

SIR: I have to acknowledge receipt of your No. 43 of June 23, 1910, with inclosures upon the subject of the conservancy of the Whangpoo River.

The department regrets to learn the attitude taken by the Chinese Government toward this very important work. Its claim that China has met all its obligations under the special Whangpoo conservancy agreement, because it has spent more than the amount originally estimated as the cost of the work, does not appear to be reasonable. The obligations of China with regard to this improvement are set forth in the final protocol of 1901 and were not reduced by the substitute agreement of 1905. The department approves of the position taken by the diplomatic corps in the letter of the Doyen of December 14 last, that "so long as the conservancy work of the Whangpoo River remained unfinished to the extent and within the limits stipulated in the final protocol of 1901, the Government of China could not be considered as freed from the obligations which it had assumed."

The burden under which the Chinese Government is laboring is a very heavy one, but the powers signatory to the protocol of 1901 have never been unwilling that a fair share of the burden should be carried by the foreign interests concerned.

The department has no objection, therefore, to your joining with your colleagues in a conference to consider plans for raising the needed funds, provided that such plans be considered tentative and have the approval of this Government before becoming operative. You will, of course, keep the department fully informed of the progress of negotiations.

I am, etc.,

HUNTINGTON WILSON.

File No. 893.811/33.

The Acting Secretary of State to Minister Calhoun.

No. 64.]

DEPARTMENT OF STATE,
Washington, September 15, 1910.

SIR: I have to acknowledge the receipt of your No. 60 of August 4, 1910, relating to the work of improving the channel of the Whangpoo River.

The department approves of your suggestion that since other powers are more interested than the United States in this question, it should be the policy of the American Legation to avoid taking a leading part in any endeavor to require the Chinese Government to fulfill strictly the letter of the conventions. While the department is deeply interested in the completion of the important work upon the Whangpoo, it is not disposed to insist upon a revival of the plan outlined in Annex XVII to the protocol of 1901.

In this, as well as in analogous questions, it is the desire of the department that the legation should use its best endeavors to prevent unnecessary irritation of the Government or the people of China, and to reduce to a minimum any demands upon the financial resources of the Chinese Government.

You are instructed therefore to cooperate with your colleagues in negotiating such an arrangement with respect to the Whangpoo conservancy question as will preserve the costly improvements already made and provide for such an extension of the work as may appear to be absolutely necessary, while at the same time endeavoring to save China, so far as possible, from any embarrassing financial burden.

Inasmuch as the foreign powers concerned agreed in 1901 to aid the undertaking by allowing the taxation of their commerce and shipping as well as of the real property in the Shanghai settlements, and only abandoned this plan at the urgent solicitation of the Chinese Government, which apparently feared the creation of a foreign vested interest that might lead to misunderstanding at some future time, there seems to be no reason now for objecting to such taxation either in aid of an extension of the work or for the upkeep of the improvements, the more so since the work was undertaken chiefly in the interest of foreign trade.

I am, etc.,

HUNTINGTON WILSON.

COLOMBIA.

TREATIES BETWEEN THE UNITED STATES AND THE REPUBLICS OF PANAMA AND COLOMBIA RELATING TO THE PANAMA CANAL.¹

Minister Squiers to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Panama (undated).
(Received January 30, 1909.)

Recent treaty between Colombia and Panama ratified by national assembly this afternoon without amendment or discussion.

SQUIERS.

The Minister of Panama to the Secretary of State.

[Telegram.]

HABANA (undated).
(Received January 31, 1909.)

Secretary Arango cables me that both treaties have been ratified by Panama.

AROSEMENA.

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 9, 1909.

Department officially advised that Panama National Assembly has ratified without amendment treaties between United States and Panama and Panama and Colombia. Use your best endeavors to urge Colombia to take similar action regarding her treaties with the United States and with Panama.

BACON.

Chargé Hibben to the Secretary of State.

No. 232.]

AMERICAN LEGATION,
Bogota, February 12, 1909.

SIR: In reference to the department's telegram of the 9th instant advising the legation that the Government of Panama had ratified the treaties between that country, the United States, and Colombia, I have the honor to inclose herewith a cutting from El Nuevo Tiempo, of this morning, together with translation thereof,

¹ For copies of treaties, see Foreign Relations, 1909, p. 223. See also Senate Document No. 474, 63d Congress, 2d session, entitled "Diplomatic History of the Panama Canal."

announcing the convocation of the national assembly for the 22d instant to consider the acceptance of the treaties in question. As will be seen from this article, as well as from those transmitted in this legation's Nos. 223¹ and 227¹ of January 13 and 18, respectively, the treaties are received with favor by both the official and semiofficial organs of the Government, and no doubt is expressed as to their ultimate acceptance by the national assembly. I have just seen the minister for foreign affairs, who questioned me closely in regard to the acceptance of the treaties by the Senate of the United States, and he assured me that it was the hope and belief of Gen. Reyes that there would not be the slightest difficulty in regard to the ratification of the treaties here.

I have, etc.,

PAXTON HIBBEN.

[Inclosure—Translation.]

El Neuvo Tiempo, February 12, 1909.

Treaties of Colombia with Panama and the United States.

Favorable stipulations toward Colombia—Convocation of the national assembly—To reunite February 22—To discuss the treaties and the budget of revenues and expenses.

As our readers are already aware, from the reproduction made yesterday of an article from the Panaman periodical, *La Estrella*, of some of the bases of the treaties which our minister in Washington signed with the representatives of Panama and of the United States—

In addition to the stipulations mentioned by *La Estrella*, we understand on good authority, that in the treaties in question there appear the following conditions, which are more favorable to Colombia than those contained in the Herrán-Hay treaty:

The isthmian railroad will carry members of the Colombian Army, army provisions, mails, etc., under the same conditions as stipulated by Panama with the United States;

The salt from the national salt mines on the Atlantic will be transported free, with no other encumbrance than the wastes of loading and unloading. This concession is of great importance, as on account of the same the ocean salt of our country will be used in place of foreign salt. In this manner the hundreds of thousands of pesos, gold, going out of the country to pay for foreign salt consumed in the departments of the Pacific will be stopped:

Colombia is conceded the right to enter the Canal Zone with such of her products, as provisions, fatted cattle, etc., for consumption, under the same conditions as the products of the United States. This concession promises for our agricultural industries and the welfare of our shores on both oceans—especially for the farmers of the Atlantic coast—a benefit worth thousands of pesos, gold, annually in the exportation of fatted cattle only, which exportation, as we all know, has ended with great detriment, owing to the fact that the markets of Cuba and of the Isthmus imposed a duty of 15 pesos, gold, on each head of fatted cattle;

Further, the treaty concedes to us the free passage of the canal—free of all taxes for the navy of our country, whether in case of interior or exterior wars;

Upon guaranty of the United States, Panama will pay to Colombia \$2,500,000, corresponding to its participation in the foreign debt; and

The boundaries will be the same as those determined by the law of the 9th of June, 1855.

All these concessions are of such importance and magnitude that we have to recognize that the American Government has made an effort to give us satisfaction for the injustices committed against Colombia, and of which the diplomatic mission—of which the actual President of Colombia was chief—claimed, in the well-known note of grievance which to-day is placed in the right before the eyes of the civilized world.

In our yesterday's edition we gave space to a letter addressed to the *Herald* by the well-known American professor, Hamilton Rice, in which he recognized the unjust manner in which Colombia was treated, and with grand altruistic spirit advised his country that they give satisfaction enforcing the principles of equity, a satisfaction which must correspond to the greatness of the American people.

¹ Not printed.

The council of ministers, in its session of yesterday, convoked the national assembly to extraordinary sessions, which will reunite on the 22d instant to consider, in addition to the budget of revenues and expenses of the present year, the treaties in question. We understand that they have already been approved by the Assembly of Panama, and judging by cable advices they will also be approved by the American Senate, which at present is discussing them.

Our minister in Washington was not mistaken when he reported to our minister for foreign affairs the generosity of these treaties, a fact which has been recognized by the sort of plebiscite which has begun in this country regarding this important question. By telegrams, which we have published in this periodical from several parts of the Republic, it will be seen that public opinion is unanimous in approbation.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
BOGOTA undated)
(Received Feb. 14, 1909).

Arrived. National assembly summoned for February 22; prospects ratification favorable.

DAWSON.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota (Received Feb. 17, 1909).

After an informal conference with 21 members of the national assembly already present, out of 48, yesterday, the President of Colombia and the Colombian minister for foreign affairs quite confident of the unanimous ratification so soon as the assembly meets. The treaties are satisfactory in every detail. Inform the minister of Colombia.

DAWSON.

Minister Dawson to the Secretary of State.

No. 235.]

AMERICAN LEGATION,
Bogota, February 17, 1909.

SIR: As I had the honor of reporting to the department by my telegram of the 13th instant, I arrived in Bogota on that day, carrying the treaties between Colombia and the United States and Panama. They were at once delivered, but owing to the slight illness of the minister for foreign affairs and the intervention of Sunday I was not able to resume my official relations with this Government until the 15th. I inclose herewith a note to that effect addressed to the minister for foreign affairs and a copy and translation of his reply received to-day.

From Cartagena, Gamarra, and Ambalema I telegraphed President Reyes to the minister for foreign affairs. At Cartagena, Barranquilla, Gamarra, Honda, Mariquita, Ambalema, and Girardot, as well as on the steamboats and at Bogota, I conversed with a large number of Colombians of different shades of political opinion, and was able to detect no criticism of the terms of the treaties or indica-

tion of an intention to oppose their ratification by the national assembly. Among some enemies of President Reyes it is said that he ought to call a new election for a congress composed of two houses, and submit the treaties to it, but there seems to be no likelihood of any concerted action in this direction. Prior to my arrival at Cartagena, President Reyes considered the advisability of such action, and consulted many prominent citizens about it. While I was on the river he announced that since public opinion was overwhelmingly in favor of the treaties and their prompt ratification, he had determined to summon the national assembly for the 22d instant. (See Mr. Hibben's Nos. 232 and 233 of the 12th and 13th instant.)

Yesterday (Feb. 16) I had a long interview with President Reyes. He had read the text of the treaties and made no criticism of any of their details, referring with much satisfaction to their very exact correspondence with his instructions given in 1905 and 1906 through Dr. Climaco Calderon, then minister for foreign affairs. He had no doubt that the national assembly would ratify them by an overwhelming or even a unanimous vote, and this by the end of next week. He and the minister for foreign affairs had an informal conference with 21 of the 48 members of which the assembly is composed. (See my telegram of to-day.) Their votes were assured. Members were arriving rapidly, and he would see about 20 more in a day or two. Telegrams were pouring in daily from all parts of Colombia expressing satisfaction with the treaties.

President Reyes manifested great anxiety about ratification by the United States Senate. He showed me a telegram, dated February 14, from Minister Cortés, in which the latter stated that it was probable the Senate would amend the treaty between Panama and the United States. Reyes fears that this may delay the Senate's ratification of the Colombian-United States treaty, and suspects that the Government of Panama will intrigue to this end. He had already answered Cortés's telegram saying something to this effect.

I told him that the latest instructions from my Government (see your telegram of Feb. 9) indicated that the department was strongly of the opinion that Colombia's interests would be furthered by her immediately ratifying, and that I had no news of any disposition on the part of the Senate to amend the Colombian treaty or delay its ratification.

I have, etc.

T. C. DAWSON.

[Inclosure 1.]

Minister Dawson to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Bogota, February 15, 1909.

MR. MINISTER: I have the honor to announce to your excellency that, having returned after my congé, I have again assumed the discharge of my duties at this post.

I take advantage of this occasion to express my thanks for your excellency's kindness to Mr. Paxton Hibben, who has been chargé d'affaires since September 20 last, during my absence, and to express the hope that the admirable relations existing between your excellency's Government and my own and this legation will continue.

I improve this opportunity to renew to your excellency the assurances of my highest consideration.

T. C. DAWSON.

[Inclosure 2—Translation.]

*The Minister for Foreign Affairs to Minister Dawson.*MINISTER FOR FOREIGN AFFAIRS,
Bogota, February 16, 1909.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of yesterday's date.

By the same I note that your excellency, having returned to this city from which you have been absent on leave, has again resumed the exercise of the functions corresponding to your character as diplomatic representative of the United States to Colombia.

I highly appreciate the friendly manifestations you have had the kindness to extend to me, which inspire me with the assurance that not only will the bonds which so happily unite the Republic of Colombia with the United States become closer, but that the official relations with your honorable legation will, in the future, be as frank and cordial as those up to the present time, which I have had the pleasure of cultivating with the chargé d'affaires ad interim, Mr. Hibben.

I beg that your excellency accept, etc.

FRANCISCO JOSÉ URRUTIA.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, February 23, 1909.

The treaties passed reading to-day. The proceedings public. The treaties now are before a special committee. No unfavorable developments so far.

DAWSON.

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 26, 1909.

On 24th instant Senate approved treaty with Colombia without change and treaty with Panama with understanding no questions shall be submitted to arbitration affecting vital interests of United States in construction, operation, maintenance, sanitation, and protection of canal.

BACON.

Minister Dawson to the Secretary of State.

No. 241.]

AMERICAN LEGATION,
Bogota, February 26, 1909.

SIR: I have the honor to inclose herewith a copy of the exposition of the minister for foreign affairs accompanying the recent Panama and United States treaties, together with a translation thereof. The translation I was not able to complete in time to go with my No. 240, of February 24 last.¹

¹ Not printed.

A full translation is sent of this very long document, not only because of its intrinsic importance, but because between its lines is shown better than I have ever seen it the real state of opinion in Colombia in regard to the United States and the secession of Panama. I also desire to call especial attention to pages 9 and 10 thereof, containing words appreciative of Mr. Root.

I have, etc.,

T. C. DAWSON.

[Inclosure 1—Translation.]

PRESIDENTIAL MESSAGE.

Honorable Members of the National Constituent and Legislative Assembly;

The minister for foreign affairs will submit to your consideration the treaties signed at Washington on January 9 last by our minister, Enrique Cortés, and the plenipotentiaries of the United States and Panama, Elihu Root and Carlos Constantino Arosemena. Rightly viewed, this important and delicate negotiation was begun in Washington by the diplomatic note addressed on December 23, 1903, to John Hay, Secretary of State, by the mission which I had the honor of presiding over, and whose members were Jorge Holguín, Pedro Nel Ospina, and Lucas Caballero.

By the celebration of these treaties our legation in Washington has carried into effect the instructions given it by the Government through the various ministers who who have had charge of the portfolio of foreign relations during the present administration, and it is just to recognize the patriotism and intelligence with which our present minister to the United States, Enrique Cortés, has conducted the negotiations and brought them to a happy termination.

I cherish the hope that when the Colombian people become familiar with their contents they will give a decisive verdict in their favor, since in making them the executive has taken into account not only the interests and needs of the people but also their commands.

In fact, the junta of commissioners of commerce, agriculture, and industry, of the departments, which met in Bogota in the month of July, 1906, to deal with economic subjects, at that time of great importance, and whose members belonged to all political parties, and who, further, were favorably known on account of the high political and social position they occupy in our society, unanimously approved at their session of July 12, 1906, the following proposition:

The undersigned, commissioners of commerce, agriculture, and industry of the Departments of Narino, Cauca, Antioquia, Bolivar, Atlantico, and Magdalena, which are the coast Departments, some bordering on the Pacific and some on the Atlantic, respectfully represent to the executive the necessity of defining quickly and in a manner honorable and advantageous for Colombia the questions pending with the United States and with Panama, and ask that this proposition, which has been agreed upon with the minister for foreign affairs, be considered by the junta.

CALEDONIO PINERES.
LUCIANO HERRERA.
OSCAR A. NOGUERA.
RICARDO RESTREPO C.
LEONARDO TASCÓN.

The very respectable organs of the press received this proposition with applause and public opinion, once in possession of the knowledge necessary for forming a judgment on such a grave matter, did not delay in making its preponderant influence felt in a like sense, as appears by the multitude of documents which were printed and which may reasonably be considered as the result of a full plebiscite.

The executive, which considers our relations with foreign nations related in a certain manner to our interior policy, conscious of its duties and responsibilities, and at the same time acting as the interpreter of the national will and looking out for the moral and material interests of the country which have been confided to it, has, during the last five years, uninterruptedly worked with the greatest zeal to obtain an honorable and advantageous arrangement of this delicate question, and entertains the belief of having done so by the treaties which are submitted to your enlightened consideration, and which should be, on your part, approved without any amendment.

R. REYES.

BOGOTA, February 22, 1909.

[Inclosure 2—Translation.]

Exposition presented by the minister for foreign affairs to the honorable National Constituent and Legislative Assembly concerning the treaties celebrated by the Republic of Colombia with the United States and Panama.

Mr. President of the assembly, honorable deputies:

I have the honor to submit to your consideration the following international agreements:

A treaty between the Republic of Colombia and the United States of America, signed in the city of Washington on the 9th of January of the current year, by Enrique Cortés, envoy extraordinary and minister plenipotentiary of Colombia at that capital, and Elihu Root, Secretary of State of the United States.

A treaty between the Republics of Colombia and Panama, signed in the city of Washington on the 9th of January of the current year, by Enrique Cortés, envoy extraordinary and minister plenipotentiary of Colombia to the United States, and Carlos Constantino Arosemena, envoy extraordinary and minister plenipotentiary of Panama to said Nation.

These agreements constitute the result of the long and difficult negotiations begun and carried on by the Government of the present President of the Republic, who, ever since he has occupied the chief magistracy, has been convinced of the necessity of regulating the relations of fact which have arisen as a logical consequence of the sad events which happened in Panama on the 3d of November, 1903, and of normalizing our situation and our rights as affected by the approaching opening of the Panama Canal. In order to arrive at the result now achieved, it has been necessary that the chief of state and those of us who have been his collaborators in the different epochs and phases of the negotiations, should, rather than complain over the cruel mutilation of our territory, that wounded our patriotism and caused national grief, pay attention to the imperious and not-to-be-neglected necessities of the future, and, accepting as irremediable facts that are so, should firmly confront the responsibility of putting an end to the terrible litigation which has stained and blackened so many pages of our contemporaneous history. Fully conscious of this responsibility before the country and before history, the Government presents to you to-day the agreements mentioned, with the desire that you give them your high sanction if you find them advantageous to our national interests, as the Government believes them to be.

In order to better aid your serene judgment, and before entering upon the analysis of the texts of the treaties, I am going to permit myself to call your attention succinctly to the history of the negotiations which have brought about the celebration of these treaties. These negotiations constitute antecedents of great importance in the matter, and have been so long and laborious that they make manifest that there has been no haste in this important negotiation, but that, on the contrary, they have been carried on with the calm serenity and prudence required by the magnitude of the question. As chief magistrate, Gen. Reyes has done nothing more than to carry on his labors to revindicate our rights, initiated immediately after the separation, when he went to Washington as chief of the special diplomatic mission, whose members were Jorge Holguín, Pedro Nel Ospina, and Lucas Caballero. The memorial of complaints of December 23, 1903, which so genuinely condensed the complaints of Colombian patriotism, was the point of departure for the process which has gone on ever since.

On February 28, 1905, Dr. Mendoza was named envoy extraordinary and minister plenipotentiary of Colombia to the Government of the United States, with the object of procuring the arrangement of the matters pending between Colombia and the United States and between Colombia and Panama. The instructions given to Dr. Mendoza by the then minister for foreign affairs, Dr. Clímaco Calderón, show the opinions of the Government as to the necessity of putting a dignified end to that situation, so disagreeable and prejudicial to our interests, which had been created by the separation of Panama.

Dr. Calderón, like the President, and like those of us who have been his successors in the department of foreign relations, well understood that the problem we had before us would only be complicated by indefinitely adjourning its solution, and that such a delay would be the origin, in the passage of time, of other problems equally complicated. I take the liberty of copying here certain of the paragraphs of the instructions given by Dr. Calderón to Dr. Diego Mendoza, since they state perfectly and simply the intentions of the Government in relation to the transcendently important duty confided to the new Colombian envoy. Dr. Calderón said as follows:

In the discharge of his functions, Dr. Mendoza will begin by persuading the Government of the United States that the present Government of Colombia is fully conscious of the responsibility of its great duties; that all parties are making efforts to maintain peace; that Colombia has entered upon the path of good sense; and that obligations which may be contracted will be faithfully executed.

In the opinion of the Government of Colombia, the independence of Panama is an accomplished fact; and if any doubts remain on this point, they would be dissipated by recalling that the first treaty celebrated between Panama and the United States contains an express guaranty of the independence of the new Republic. As a consequence of our recognition of Panama, the minister is authorized to make a postal convention, a consular convention, a general treaty of commerce, and one of extradition. The rules to be followed by the minister in adjusting the above-mentioned international agreements are not given in minute detail, because besides the general principles applicable to such matters, and which the minister is familiar with, he should look to the particular circumstances of each case and bear in mind that Colombia does not ask for exorbitant concessions, but only for what will tend to mutual progress and good friendship between two nations of common origin and harmonious interests; for what will redound to the benefit of both and the well being of their citizens.

And further on, in the same instruction, Dr. Calderón adds:

Present general sentiment in Colombia tends toward the reestablishment of relations between the two entities. There are some who desire that Colombia should maintain a condition of hostility and rancor in respect to Panama. Such spirits will protest against anything that may be done. Nevertheless, having in view the great future interests of the country, the Government does not hesitate to follow a different policy from that devised by such citizens. They are doubtless zealous patriots, but they refuse to see the reality of accomplished facts. Therefore, the Government of Colombia assumes before contemporaries and posterity the responsibility of the policy which it now, after a thorough, serene, and impartial examination, orders to be followed. It is confident that the minister, freeing himself from prejudices and preoccupations of badly understood patriotism, will have the civil courage to assume in his turn the responsibilities of such a policy, and that he will not hesitate to attach his name to the transcendental acts we have spoken of, being sure that he will be acting as a good citizen and patriot. In its turn the Government is confident that the good sentiment of the country will prevail and leaves to the passage of time its historical justification.

The three years transpired since Dr. Calderón wrote these instructions have not lessened, but, on the contrary, accentuated and perfectly confirmed the logical force of his opinions. The Republic of Panama, recognized by the majority of the nations of the world from the beginning of its existence, has been able to continue its independent life under the same protection that sheltered its birth and its introduction into international society. The abnormality of our relations of public and private international law with an entity bordering upon us and profoundly linked to our own causes us continued difficulties. A very numerous group of our compatriots, formed by Colombians who have preferred to retain their original nationality in the territory of the new Republic and those who have gone to said territory since the 3d of November, 1903, live there without defined rights, seeing that, in the condition of our relations with the territory which, theoretically, we have continued to consider our own, notwithstanding its independence, in fact, from our sovereignty, legal normality, or even the application of the principles of international private law, have not been possible. Such compatriots have not been able to perform any civil act intended to take effect in the rest of the territory of Colombia without exposing themselves to an unavoidable refusal on the part of our national authorities to recognize such an act. In Panama the passage of correspondence addressed to Colombia has suffered difficulties highly prejudicial to our commerce. Recriminations for what had taken place continued opening an abyss which ought not to exist between two neighboring peoples still united by indestructible bonds, even though such bonds had ceased to be those of a common nationality. Resolutely and even at the cost of the sacrifice of our self-love it was necessary to throw across this abyss a bridge that will facilitate our march to the conquests of the future. There in that very territory where the Colombian spirit can not help continuing to live with the life of an indelible past, although now no longer under our national flag, there is being accomplished one of the greatest events which the history of humanity registers, an event certain to revolutionize the political and commercial world, and we, at the very borders of this stream of universal civilization, can not remain impassive, inactive, silent, absorbed in our rancors, hoping for the promised day of vengeance which does not come—which will never come. Out of the excess of evils we should snatch a good, even if in doing it we are forced to restrain the expression of sentiments which, although they may be generous, nevertheless must be recast in the mold of present necessities and advantages.

Unhappily the mission intrusted to Dr. Mendoza did not obtain the desired results. He was received by the President of the United States on May 30, 1905, and continued in charge of his post until July, 1906.

The luminous exposition of December 23, 1903, which the man who is to-day President of the Republic addressed as a memorial of complaints to the Secretary of State in his capacity as special envoy, was confirmed in the various notes that Dr. Mendoza addressed to the American Government in defense of our injured rights. By these notes were added new pages to those which from the first moment when the said event was known proved eloquently not only the soundness and the moral value of our rights, but also the practical impossibility of making them effective. However, the negotiations began by Dr. Mendoza made no progress, and my predecessor in this department thought it advisable to recall him to this capital, with the object of

consulting in regard to the form of proceeding to be followed in the future. Thereupon there happened those incidents with Dr. Mendoza that the people are already familiar with and which I do not think it necessary again to refer to here. My predecessor, Gen. Vázquez Cobo, has already recited them in the report he had the honor of presenting to you in your 1907 session.

On September 24, 1906, the Secretary of State of the United States, Elihu Root, came to Cartagena on a final visit, the last one of his journey through South America. He was received at that port by the minister for foreign affairs, Gen. Vázquez Cobo, in virtue of the especial commission of the President of the Republic.

Mr. Root, who had just finished visiting the South American capitals, amid an uninterrupted ovation during which he did not neglect to show himself the determined defender of the great principles of international law, upon which the well-being of nations depends, was received by our minister for foreign affairs as a "herald of peace, of justice, and concord." On his part Mr. Root manifested his—

sincere desire that all questions pending between the Republic of Colombia and the United States of America be peacefully arranged in conformity with a spirit of friendship, of mutual esteem, and in accord with the honor of the two countries.

Gen. Vázquez Cobo received from the President precise instructions to present to the Secretary of State the bases upon which the desired agreement could be reached. Upon these bases have proceeded the negotiations that have so seriously preoccupied this Government during the two years and some months elapsed since the visit of Secretary Root. They, with slight modifications, are to-day to be found in the treaties I submit to your consideration. Secretary Root has loyally fulfilled the promises made to Gen. Vázquez Cobo in Cartagena, and in the course of his negotiations of these treaties has once more proven his spirit of nobility and justice and his feelings of warm Americanism.

Since the Cartagena conference the negotiations in Washington have been in charge of Enrique Cortés, plenipotentiary named to replace Dr. Diego Mendoza. Mr. Cortés, who before his nomination as Colombian plenipotentiary in Washington had been accredited during the ministry of Dr. Clímaco Calderón as confidential agent to the Government of the United States with the duty of cooperating with Dr. Menoza's labors, has in the performance of his delicate mission shown high diplomatic qualities, and I take pleasure in recognizing them on this solemn occasion as a tribute to his complicated labors—labors as patriotic as intelligent—and crowned by a result which, for fear of prejudicing a cause that affects me so much, I would not dare to characterize as happy had not that adjective already been agreed upon by the impartial and unanimous evidence of the American diplomats in Washington. In reaching this result the plenipotentiaries of the United States in Bogota, John Barrett and Thomas C. Dawson, have aided efficiently, and in the performance of their mission these gentlemen have shown themselves to be sincere and decided friends of Colombia.

When the negotiations had been renewed by our plenipotentiaries, Dr. Cortés, though he found a determined cooperation on the part of the Secretary of State, encountered an opposition that arose from elements interested in the prolongation of the indefinite status of matters, and that you will easily understand without the necessity of my specifying. Nevertheless, our legation succeeded in reaching an agreement which was embodied in a tripartite protocol, signed in Washington on August 17, 1907, by the plenipotentiaries of Colombia and Panama and Mr. Taft, Secretary of War of the United States, representing the Government of the latter Republic. In this protocol, whose text I furnish herewith, were embodied the substantial bases for the celebration of a treaty to be made immediately thereafter. When the text of this protocol was received the President and the minister for foreign affairs, Gen. Vázquez Cobo, gave it careful study, and the result of this examination was the sending of supplementary instructions to our minister in Washington calling attention to certain points that needed explanation, amplification, or modification.

After these instructions had been received, and when the work of embodying the clauses of the August, 1907, protocol in treaties was already under way, there arose the discussion over the proper boundary to be fixed between the Republics of Colombia and Panama. The Colombian Government, knowing the validity of its titles, taught by the experience of what our boundary disputes had signified in the course of our national existence, and wisely looking forward to what the future might bring, would not agree for a single moment to sign any treaty which did not recognize the boundary that, according to our laws, had divided the Departments of Cauca and Panama. The discussion between the representatives of Colombia and Panama on this point assumed a character that caused a fear that the negotiations might fall through, and the Colombian Government believed it its duty to occupy the Territory of Jurado, as you were informed in your former session. An expedition under the

command of distinguished officers of our army traversed the virgin forests of the Choco with an intrepidity only to be compared with that of the early Spanish conquerors, and without encountering any resistance placed on those borders of the Pacific known as the Territory of Jurado the sacred emblem of our fatherland. Our authorities have since continued exercising peaceful jurisdiction there.

When I take up the clause of the treaty between Colombia and Panama in reference to the boundary I will call your attention in a more special and detailed manner to this very important matter. At present I will follow the history of the negotiations.

The recovery of Jurado by our forces and the establishment there of our officials provoked a formal demand for intervention by the United States from the Panamanian Government. This demand was based upon the stipulations of the treaty of November 18, 1903, between those two Republics. After a careful examination of our evidences of title and a special report of Mr. Taft, Secretary of War, the Government of the United States was of the opinion that the case did not justify a compliance with the demand of the new Republic. In spite of this refusal, the negotiations entered upon a period of complete paralysis that only ended several months later, when a new administration in Panama replaced the one presided over by Dr. Amador Guerrero. Though negotiations were recommended, they progressed very slowly, and the moment came when the President made up his mind to declare his decision to withdraw the Washington legation if the disagreeable litigation which for more than five years had embarrassed the Colombian Government and people should not immediately end. Happily, at last an agreement was reached upon the stipulations contained in the treaties I now submit to you and which were signed by our plenipotentiary in Washington in accordance with the instructions given him.

Such is the synopsis of the history of the negotiations in Washington which followed the presentation of the memorial of complaints of December 23, 1903. They had been inspired by the very author of that memorial, the present President of the Republic, who has indefatigably sought satisfaction for the national honor. In this patriotic desire he was seconded by the ministers, my distinguished predecessors, Dr. Clímaco Calderón and Gen. Vázquez Cobo.

I will now go on to treat of the texts of the treaties:

TREATY WITH THE UNITED STATES OF AMERICA.

The Colombian and American negotiators in Washington had discussed the terms of a general treaty of friendship, commerce, and navigation to replace the treaty of 1846 between the Republics of the United States and Colombia. In such a treaty it was understood that there should be incorporated advantages conceded to Colombia in relation with the Panama Canal. Afterwards it was found preferable to adjourn the consideration of a general treaty of friendship and to proceed simply to agree upon the special treaty now submitted to you, which was the one most imperiously demanded by our interests, and which we may consider as relatively a compensation for our injured rights.

There was another powerful consideration for preferring not to embody in a general treaty of friendship the clauses relating to our advantages in the canal. An ordinary treaty of friendship, commerce, and navigation implies the usual clause for denunciation either by fixing a limit of time or by establishing a period within which it may be denounced. Such a provision has been embodied in the project that the Secretary of State, Mr. Root, presented to our plenipotentiary in Washington. If, therefore, we had embodied in such a treaty the clauses relative to the canal, we would have accepted a limit of time for the enjoyment of the privileges conceded to us, and this would be equivalent to notably reducing the value of the concession we are seeking. The advantages conceded to us are now perpetual in their character. Nor would this inconvenience have been avoided by giving certain of the clauses of a general treaty the character of perpetuity, seeing that, although this method of procedure is not unknown in certain treaties, it is always the origin of dangerous distinctions to enact in a treaty what part shall be limited in time and what shall not be subject to denunciation, especially when a treaty itself shall have been denounced or the time should have elapsed.

Article 2 is as follows:

In consideration of the provisions and stipulations heretofore cited, the following has been agreed upon: The Republic of Colombia shall have liberty at all times to transport through the ship canal the United States is constructing through the Isthmus of Panama troops, military materials, and war ships of the Republic of Colombia without paying any duty to the United States, even in the case of an international war between Colombia and any other country.

During the construction of said interoceanic canal the troops and military materials of the Republic of Colombia, even in case of an international war between Colombia and any other country, shall be transported by the railroad between Ancon and Cristobal, or by any other railroad which may take its place, on the same conditions as like services are rendered to the United States.

The officials, agents, and employees of the Government of Colombia shall have the right of being transported gratuitously by the said railroad through the Isthmus of Panama, notice having been given to the employees of the railroad and their official character proven.

The foregoing dispositions of this article shall nevertheless not be applicable in case of war between Colombia and Panama.

This article was intended to give to the advantages in our favor that are embodied in the treaty a character of reciprocal compensation, although by themselves they perhaps do not have such a nature. Besides, the desire on the part of the Government at Washington that the treaties should have such a character was very natural on account of many reasons which will not escape your enlightened penetration. Even if it be thought that the renunciation on our part embodied in article 6 does not equal the advantages given by the other articles, such advantages could not be called gratuitous and would not place the Government at Washington in the position of being obliged to concede like advantages should they be solicited by other nations under the favored-nation clause.

The liberty of transporting our troops, war ships, and ammunition through the Panama Canal, which thereafter is given us by the said article 2, is of the greatest importance and we can truly say that it signifies for our future a precious concession. It would be such for any nation, but for Colombia, who has coasts on both sides of the canal, such a concession signifies in effect the reestablishing of the continuity of these coasts and the adjacent seas, a continuity which the segregation of Panamá put us in the position of being obliged to obtain. The liberty of trade now obtained was the ideal which our negotiators in Washington had pursued energetically ever since the lamented Dr. Carlos Martínez Silva reached that capital with Colombia's first propositions. As you may see by the reading of those propositions, there was always included in them a clause concerning canal traffic, analogous to the one embodied in the article of the treaty which I am treating. Article 17 of the treaty of January 22, 1903, the Herran-Hay treaty, also embodied a like stipulation. That article said:

The Government of Colombia shall have the right of transporting its ships, troops, and ammunitions of war through the canal at all times without paying any duty. This exception extends to the service railroad as to the transporting of persons in the service of the Republic of Colombia or the Department of Panama, and of the police charged with the preservation of public order outside of said zone as well as of their baggage, arms, and provisions.

The stipulation of the present treaty is broader and better secures our rights, since it expressly provides that the liberty of traffic exists even in the case of an international war between Colombia and any other country. The stipulation contained in the second and third clauses of article 2 of the present treaty in relation to our rights concerning traffic and transportation over the railroad between Ancon and Cristobal during the construction of the interoceanic canal is also broader than the analogous provision in the Herran-Hay treaty.

The liberty of transit for our navy, even in the case of international war, places us in an advantageous situation in respect to all the nations of the world, although by the concession itself and also by the circumstances already noted of our having coasts and important posts on both sides of the canal, this privilege will become more valuable in the lapse of time, and the day will come in which the generations that succeed us will esteem it in all its value for the benefit they will derive from it.

Further the restrictions embodied in the last clause of article 2 in the case of a war between Colombia and Panama is perfectly justifiable in view of the stipulations of the treaty between Panama and the United States, which imposes on the latter Republic, among other duties, that of guarding the integrity of the former.

Article 3 implies a concession of great importance for our economic and commercial interests, especially for those of the departments on the Atlantic and the Pacific Oceans. What is stipulated in said article can be of the greatest advantage for our cattle industry, especially during times when the difficulties placed in the way of the exportation of cattle to Cuba and other circumstances have produced a real oversupply in some of the Colombian markets.

According to very recent data there are 50,000 consumers in the Canal Zone to whom the zone commissariat sold last year articles of primary necessity to the value of \$3,793,593 gold. The largest articles of this consumption are meat, flour, tobacco, potatoes, and others which we produce under conditions that permit the export of most of them to the Isthmus. Therefore a rich market is opened to us by the treaty with the United States, and it is opened to us under the most favorable conditions, seeing that our products are exempt from the payment of duties just as are products coming from the United States. Not even the Republic of Panama has conditions as favorable as Colombia in the matter of the introduction of her products into the Canal Zone, and in any case a privilege which would mean for Panamanian producers and merchants only a competition, and would be the origin of daily quarrels, is, for Colombian producers and merchants, simply an advantage which places them in exceptional conditions.

The stipulation relative to provisions for Colombian laborers not only favors our numerous compatriots who work on the canal, but is also a means of encouraging the export of products which we produce in great abundance on our coasts.

Article 4 of the treaties with the United States contains two stipulations not less important than the former ones—the one in relation to the transportation of our mail sacks and the one in reference to the transportation of our products, especially Colombian sea salt.

An account of the difficulties which we have encountered in regard to the passage of correspondence coming to Colombia by the Isthmus would be very long. Such difficulties were only slightly ameliorated by the creation of an agency in Panama charged with the duty of watching over our interests. The gratuitous transportation of our mail sacks through the offices at Ancon and Cristobal and the equality of treatment with the mail sacks of the United States, which is conceded for them, will noticeably better the previous unfortunate conditions.

In respect to sea salt, the advantages in its transport ceded by the treaty—advantages which have been sought energetically from the commencement of the present negotiations—will put the Government in the position of continuing, as at present, furnishing the Colombian departments on the Pacific with the sea salt produced by our departments on the Atlantic. Seeing that the Government was able to carry out its designs, even paying the high freight rate on the Panama Railroad, as happened last year with large shipments, it is evident the advantages now conceded will make it easy for the Government to finally effect the dislodgment of all non-Colombian salt from Colombian markets. For the economic future of the Republic, so intimately connected with the favorable trade balance we hope to obtain, the avoidance of the payment we now make to Peru of half a million dollars annually for our consumption of her salt will be of great value, and we can do this without endangering our purpose of enabling consumers to buy this article at a really low price.

The recognition of the transfer of 10 annual payments of \$250,000 each, made in our favor by the Republic of Panama, obliges the United States to deliver these installments directly to the Government of Colombia. In the course of the negotiations we obtained the elimination from this article of any expression which might give it a character of compensation for the recognition of the new Republic, a compensation which certainly was not proper, and which we could not accept under any form.

Article 6 embodies the concessions and recognitions on our part which appear as a compensation for the concessions hereinbefore mentioned. In reality the right of refuge for ships in distress is one recognized by international law, and does not constitute a concession on our part, seeing that the restriction is imposed that such a permission shall, in case of war, be subject to the laws of neutrality. The concession we made by article 15 of the Herran-Hay treaty was much broader, since it did not contain any restriction in case of war, notwithstanding the commission which reported on said treaty in 1903 did not make any objection to the said article.

The renunciation we made at the end of article 6 amounts to a renunciation of the right which the Republic of Colombia formerly had under the concessions given Luciano Bonaparte Wyse, the Universal Panama Canal Co., the Panama Railroad Co., and the New Panama Canal Co.; that is to say, the same renunciation which is referred to in article 12 of the Herran-Hay treaty.

Although it may have been logical when we were negotiating in Washington before 1903 to discuss serenely what values these concessions had for us before accepting the compensation offered, at the present juncture and in view of accomplished and universally accepted fact there is nothing for us to do but to bow before the absolute power of the inevitable, leaving, however, evident to the world that the laws granting these conventions, their generosity and breadth, constitute a most eloquent proof that Colombia never opposed any obstacle to the civilizing stream that was trying to open the splendid throat of the Isthmus for the universal benefit; and of how, from the beginning of our republican life until the day when the immortal De Lesseps trod our beaches and was welcomed by the enthusiastic acclamations of the Colombian people, being received as the precursor of a new era of civilization, our governors and legislators never ceased a single day to occupy themselves in the prompt realization of the cherished conception, and that later, when the great Frenchman was dead and his gigantic scheme was dying, they preoccupied themselves in like manner. Colombia aided him by granting new and almost gratuitous extensions of time for the finishing of his work, and a support that the world had already denied him; 1835, 1838, 1851, 1852, 1858, 1866, 1868, 1870, 1876, 1878—there has hardly been a year in the history of new Colombia that does not register an act, a law, an effort, to show how intense were national preoccupation and desires in favor of the civilizing work, to whose realization an effort was made at a mournful time to make us appear as opposed—as if to add ridicule to injustice.

These brief reminiscences may appear out of place in this document were it not that the solemnity of the present moment requires them as a justification of the memory of those many illustrious Colombians who, with patriotic zeal and altruistic purposes, took part in the various negotiations relative to the Panama Canal and railroad.

Article 7 refers to the approaching revision of the 1846 treaty, seeing that, as I have previously indicated to you, it was not possible or deemed advantageous to include the clauses of the present treaty among those of a general treaty of friendship. In the new treaty stipulations should be included securing the putting into effect the principles of arbitration. Following its instructions from the Government, our legislation has worked to secure its immediate signing. The Republic proves its determination undeviatingly to continue the honorable traditions of our foreign office, which come down from the glorious epoch of Bolívar and the Great Colombia.

Article 8 of the treaty establishes the interdependence of the three treaties—ours with the United States, ours with Panama, and the one of the latter Republic with the United States. If one of the three treaties fail, all three fail.

Further, this interdependence was inevitable. On one side, the United States recognized the transfer to us of certain sums it owes to Panama; it was, therefore, necessary that this transfer be perfected by the acceptance of the creditor and debtor nations. Further, the existing treaty between the United States and Panama provides that the annual payments of \$250,000 should begin to be paid February 26, 1912, while, according to the treaty agreed upon with Colombia, these installments will begin on February 26, 1908, the date when the transfer begins to run in our favor. It is, therefore, necessary that the treaty altering such conditions and which further implies an increase of four years of payments (that is to say, a million dollars) be approved by Panama and the United States in order to be effective.

An intimate connection is very natural between treaties intended as a solution as far as possible of difficulties which arose and were developed inextricably and as a consequence of the same facts.

TREATY WITH PANAMA.

The principal articles of this treaty are those which provide for the recognition of the new Republic by Colombia, the sum to be paid us for the exemption of Panama from responsibilities as to the payment of our foreign and domestic debts, that which fixes the boundaries between the two Republics, and that which determines the conditions under which Colombians and Panamans, born in the territory of either of the two Republics before November 3, 1903, and who on that date resided within the territory of the other, may choose their nationality. The article relative to the recognition of the Republic of Panama requires no reasonings or commentaries. So far as we are concerned it does not even permit them. I would fear that the weakness of my words might not do justice to the immensity of the sorrow and misfortune of our fatherland. If I should say anything to-day about this article, it would be only to express the wish that the people who formed with ourselves during 82 years a single national entity should now be honored and respected, and to express my hope that the beautiful star which has been separated from the Colombian constellation may shine with an inextinguishable light in the heaven of American democracy.

By article 12 of the treaty the Republic of Panama cedes us 10 annual payments, of \$250,000 each, in exchange for the recognition made by Colombia that said Republic shall have no obligation or responsibility to the holders of the foreign and domestic debt of the Republic of Colombia, or to the Republic of Colombia on account of the debts and reclamations originating said debts. Colombia assumes all responsibility for such debts and assumes the obligation of holding Panama harmless on account of them.

I will not enter upon arithmetical calculations to try to elucidate whether the proportion adopted was or was not a just one, whether taking population as the basis of the division as was done when the debt of old Colombia was distributed by the Pombo-Michelena convention of December 23, 1884, or whether taking other elements as a basis for calculation. For us the amount agreed upon has a secondary interest in comparison with the moral result obtained—that is to say, the obtaining of a recognition of the obligation to contribute to the payment of debts which, as was natural, also rested upon the separated territory—debts which Colombia had recognized as a whole and was regularly paying in accordance with her agreements and existing laws.

By article 4 of the treaty, the two Republics reciprocally declare themselves free of all pecuniary responsibility or obligation of whatever nature; but this exemption does not touch the rights and individual actions of citizens of either of the two Republics, providing that such reclamations can be considered valid in accordance with the laws now in force and those in force on November 3, 1903. This provision of exemption guarantees both Republics against ill-founded claims.

By article 5 of the treaty, Panama's abandonment of every right and title to the 50,000 shares in the New Panama Canal Co. is confirmed. You already know the issue of the laborious litigation concerning these shares—a litigation intrusted from the beginning to the indefatigable as well as intelligent, enlightened, and patriotic efforts of Gen. Jorge Holguin, who, to-day present in the body of the legislative assembly, can give you, should it be necessary, an account of the tremendous efforts that he and his coadjutors, Gen. Marceliano Vargas and Dr. Juan E. Manrique, made in order at reach the final result which safeguarded our honor and our interests.

Article 6 settles, in accordance with international principles and practices, one of the problems which naturally resulted from the separation of the inhabitants of such territory, when it constituted itself into a new nationality. The right of choice of nationality which article 6 establishes in favor of those individuals born before November 3, 1903, within the territory that to-day belongs to the Republic of Panama, and who on the said date were residing within the territory that to-day belongs to the Republic of Colombia, and vice versa, in favor of the individuals born within the territory of Colombia who were in like manner residing in Panama, constitutes an exception to the ordinary rule of choice of nationality established by international law and which our constitution likewise recognizes, a rule that does not require residence. In order to determine the right to the choice the treaty permits, only two elements are taken into consideration; first, birth; and second, residence on the date when the separation took place. So, therefore, a native Panamanian, who on the said date was residing within our present territory, may now choose Colombian nationality and this whether or not he has continued to be domiciled in Colombia. But a native Panamanian who did not have such a residence can not choose Colombian nationality unless in accordance with our constitution; that is to say, by adopting said nationality by applying for letters of naturalization. This provision of the treaty, providing for the collective naturalization of Panamanians and Colombians, establishes nothing extraordinary, seeing that we know of like regulations having been adopted when the differences were settled which arose on account of the cession of the Territory of Louisiana, the annexation of Texas and Hawaii, when the treaties of Florida and Frankfort were celebrated, when the treaties between Spain and the United States were settled after the war of 1898, and in many other cases which it would be too long to enumerate.

Article 9 determines the frontier between the two Republics. This question of boundary was one to which the Government gave the greatest attention, as I have already indicated, on account of its intrinsic importance. At all hazards, the Government desired to determine the boundary, and that such determination should be made in accordance with what Colombia insisted should be considered as the norm of demarcation; that is to say, the Colombian law of June 9, 1855, which fixes the following limits between the departments of Cauca and Panama:

From Cape Tiburon to the headwaters of the River Miel, and following the Cordillera by the Cerro de Gandi to the Sierra de Chugargun, then the Sierra de Mali, following down the Cerros de Nigue to the Heights of Aspave, and from there to the Pacific between Cocalito and La Arditá.

The Panaman Legation based its claims on the decree by the President of New Granada, Thomas C. D. Mosquera (of August 7, 1847). This decree provisionally fixed the boundaries of the territory of Darien as follows: On the east, the River Atrato from its mouth to its confluence with the Napipi; on the south, the latter river throughout its course, and a straight line from its source to the Bay of Cupica and the Pacific Ocean.

In contending for the boundaries according to the decree of Gen. Mosquera, the Panaman Legation in Washington in reality did nothing more than revive the old lawsuit between the State of Cauca and Panama, a lawsuit which the Supreme Federal Court decided against the latter on January 12, 1864.

The only point upon which we could permit discussion was on the determination of whether this or that portion of territory was or was not included within the line thus fixed, such line having been accepted in principle. This is what has been done with the region that extends from the Heights of Aspave to the Pacific Ocean; that is to say, the region of Jurado. Although the line provided by the law of 1855 must end between Cocalito and La Arditá on the Pacific Ocean, said law does not fix the exact point of such termination. Such a circumstance, added to various others which made it convenient for our interests to accept arbitration in the manner provided for by the treaty, decided the Government to agree on the terms of article 9. This article leaves our territorial rights perfectly assured over the splendid region drained by the Atrato and its tributaries, a region which is undoubtedly one of the most valuable of the territory of Colombia. Further, the constitution of the tribunal of arbitration, immediately after the ratification of the treaty and the brief periods fixed for the reaching of the decision, still further guarantees us, if it is necessary, that no disagreeable questions will remain to be resolved in the future between the two Republics.

Article 7 of the treaty, which provides that neither of the two Republics shall admit to form part of its nationality any part of the territory of the other which may be separated by force, embodies a prohibition which it would be very desirable to be adopted as a principle of American international law.

You will permit me, in conclusion, and as a supplement to the succinct analysis which I have just made of the two treaties, to say something to you in regard to their negotiation as a whole.

There have been those who believe that the question originating in the session of Panama is to be carefully kept alive by us as a heritage hereafter to be converted into an inexhaustive mine of various benefits for Colombia. It was said that we ought to leave to time and its evolutions and its possibilities the arrangement of the break of November 3, 1903. The Government, on the contrary, believed that the protection of the great interests of the Republic which the Constitution had intrusted to it required it to seek a prompt solution of the important problems whose gravity would not diminish by delaying their solution. Isolation is perhaps possible between two widely separated countries, but it is not admissible for two neighboring peoples, between whom exists in fact a daily interchange which in our own interests ought to be normalized. Communion between the peoples of the world is to-day so intimate on account of the bonds which the development of civilization has created that it is not now possible, as it was formerly, to adjourn indefinitely the arrangement of situations arising from facts. International history during the last decades shows this clearly to us, and it would be in vain for us to undertake to be blind to the lessons of history and to refuse to recognize its philosophy by opposing to the universal acquiescence of the nations of the world a stubborn negative which would injure our own interests. The first thing to do is, without any delay, to trace between the fragment of territory which has been segregated from our fatherland and the territory that remains to us the line which will indicate the boundary that can not be crossed without once again attacking our sovereignty. In view of the kind of territorial guaranty that the Republic of the United States has given Panama, no Colombian can disguise from himself the advisability of knowing immediately just how far this guarantee extends.

The feeling in favor of our rights which at first seemed to appear among some North American thinkers and which was the origin of a pleasant hope did not increase at all. The dignified though warm appeal made by the Chief Magistrate of Colombia, the enlightened Marroquín, in his telegram of November 3, 1903, to the President of the Senate in Washington, when he said "In behalf of justice, Colombia appeals to the dignity and honor of the American Senate and people," remains to this day without any echo, and the verdict of the American people has rather confirmed than condemned the international policy of their Government.

Why, therefore, adjourn the matter if adjournment up to now has in no way bettered our painful situation?

When the Herran-Hay treaty was presented in 1903 in the Colombian Senate, the hall of the legislature resounded with the eloquent voice of Colombian patriotism that saw in this treaty a manifest attack on our Constitution and on the most important attributes of our sovereignty. There have been few times in the course of our national life when parliamentary debates have been inspired by such a sacred fire, and very few times when what was loyally believed to be the defense of national interests honor was defended in our tribune with greater heat.

History will tell whether the Senators of 1903 were or were not mistaken, but it will always show that their purposes were high and their patriotism pure. Frangi, non flecti, was their motto. We who as governors or legislators are to-day about to put an end to this vitally important litigation, perhaps would have also placed our austere negative on the pan of the balance in view of the problem and the circumstances of that time, even though we may have feared that the shock of such a negative with the great interests that were already interested in our Isthmus, might have destroyed our sovereignty there. Let us render this tribute of justice to the Senate of 1903 and hope that posterity will likewise do so.

It will be for that same posterity, it will be for time with what we call its surprises and which really are nothing except the logical consequences of historical fact, to say whether the shock that then broke the territory of the nation, and—something far worse—that broke the profoundest and most delicate national Colombian feelings, was nothing more than the first of the shocks which perhaps will take place between nations, between continents, between civilizations, even there amidst those same seas to whose borders Bolívar once summoned the nations to unite themselves around the fecund standard of law and peace. February 5, 1900, the date of the Hay-Pauncefote treaty, which replace the Clayton-Bulwer treaty, and the 3d of November, 1903, the date of the secession of Panama, are perhaps nothing more than the initial dates of a new and vitally important chapter in the history of humanity.

Following out its marvelous purposes, Providence reaches its serene solution of the most arduous problems of nations as well as individuals; from evil it derives good, as it extracts as from the germs of to-day's dissolution the life of to-morrow. The profound emotion that convulsed the Colombian people, Government, and Congress in 1903, has become less and less before the unscaleable wall of accomplished and accepted facts; the problem has been resolved by the joint action of inevitable causes; the painful alternative which the Senate of 1903 had before it, already does not exist for you, and I do not believe I am mistaken in saying that the very Senators of 1903, were they to-day in your chairs, would give their approval to the treaties I am submitting to you. Such approval has, with complete realization of his responsibility, been given by the author of the memorial of complaints, who is to-day President of the Republic. Feeling upon himself all the weight of duty in these solemn moments, he may recall the words of Thiers when the latter, finding it necessary to temper by the serene calm of the negotiator the indignant speech of the orator protesting against the dismemberment of France, exclaimed: "I would have believed that Providence might have spared me the performance of such a painful duty."

Honorable deputies, the Executive trusts the serenity of your high opinion, and through me presents you the accompanying drafts of laws ratifying the treaties.

FRANCISCO JOSE URRUTIA.

BOGOTÁ, February 22, 1909.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogotá, March 1, 1909.

Colombian minister at Washington has already telegraphed ratification by the Senate of the United States. Opposition developing. The enemies (?) of the President attacking the assembly, demanding elected Congress and the amendment Jurado (?) clause. Ratification is certain unless Reyes weakens. Final vote, it is hoped, by Friday.

DAWSON.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogotá, March 10, 1909.

Student demonstrations against the treaties yesterday. The President of Colombia has issued a decree to-day confiding maintenance order to minister of war. Motion to postpone consideration of the treaties has been defeated, 40 to 6.

DAWSON.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogotá, March 14, 1909.

José Holguín assumed presidency 13th. Anti-Reyes street riots all day and all night. Holguín postponed indefinitely consideration of the treaties. Reyes reassumed presidency morning of 14th; Vasquez Cobo, minister of war. State of siege declared in Bogotá. Nicholas Perdomo commanding troops. Artillery in plaza. Rumors disturbances in the Provinces. Civil war possible. At the present moment city quiet.

DAWSON.

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 15, 1909.

Continue to report by telegraph. It would be deplorable if this outbreak should disturb the ratification of the treaties.

KNOX.

The Colombian Minister to the Secretary of State.

No. 52.]

LEGATION OF COLOMBIA,
Washington, March 16, 1909.

SIR: Referring to the ratification by Colombia of the treaties concluded with the United States of America and Panama, I beg to inform your excellency as follows:

On the 8th instant I had a cable from Bogota stating that the treaties should be presented immediately to the national assembly, with a very elaborate report from the committee demanding their immediate ratification without modification. The cable added that the Government expected the treaties should be approved by the unanimous vote of the assembly. I did not hear anything else until the evening of the 14th instant, when I received a cable stating that the Government had decided, in view of numerous manifestations of public opinion in the country, to suspend the consideration of the treaties by the national assembly and submit them to a new-elected Congress, that should be called for immediately. The cable adds that the Government expected by this process to obtain a more solemn approval of the whole nation. There was a strong opinion in favor of the treaties, and the Government were exercising their best endeavors, feeling confident that they should be approved. The Government desires to inform you of the contents of this cable.

On receiving this cable I felt very uneasy and became sure that something had taken place which had altered the course of the business as I had been previously advised.

I immediately cabled, demanding explanation, expressing my regret at the change advised, and urging for an immediate answer.

On the following day, yesterday, the secretary of the legation called on Mr. Wilson to inquire if you had any news.

Mr. Wilson was good enough to give us a copy of the cable you had received. It appeared evident that my surmise was correct, and that something serious had happened. So far I have received no further news which I am expecting instantly.

I beg, however, to call your attention to the fact, which is apparent by the contents of the cables mentioned, that the Government continues strenuously to bring about the final approval of the treaties, assuming energetic action on the matter in a loyal and straightforward manner.

I am expecting further developments; meanwhile my opinion is that although a little later than was anticipated the treaties will be approved without any modification whatever.

I have, etc.,

ENRIQUE CORTES.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 16, 1909.

City continues quiet. No confirmation Saturday's rumors provincial disturbances. The assembly meeting daily. Has not acted upon Holguin's attempted postponement treaties. President of Colombia just announced to the diplomatic corps that he has determined to remain as such and that the assembly would reject his resignation. The agitation against the treaties dying down. I am still hopeful ratification.

DAWSON.

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 17, 1909.

Your telegram of March 16, 5 p. m., received. You may informally express to President Reyes our cordial sympathy and our confidence that he will do all possible to bring about the approval of the treaties, and thus consummate the good relationship we so earnestly desire.

KNOX.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota (undated)
(Received March 18, 1909).

It is important, and perhaps decisive for ratification, that the Panama minister and the Colombian minister exchange notes defining limits of Jurado. Opposition is also laying stress on ambiguity sixth article of the treaty with the United States, caused by placing the comma after "Refugio" instead of "Comercio."

Minister for foreign affairs of Colombia requests me to ask authorization to hold myself in readiness to write a note saying that use conceded is understood to be only as that right of refuge recognized by international law, to be subject to the usages established by international law with regard to right of refuge, and not as involving any breach of Colombian sovereignty over her ports.

DAWSON.

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1909.

Your undated telegram received 18th concerning punctuation and intent of article 6. Colombian minister has also brought the matter to my attention. The comma in the Spanish text is obvi-

ously misplaced. Equivalence to sense of the English text requires comma after *comercio* and none after *refugio*. The change can be initialed on the original by the Colombian minister and Mr. Root, and you can do the same with the Colombian minister for foreign affairs on his text.

You are authorized to write the Colombian minister in the sense you suggest concerning the use of Colombian ports for shelter in case of stress or need for vessels using or bound for the canal. We understand that all the first part of article 6 does is to recognize the long-standing doctrine of international law concerning the friendly shelter of vessels in stress or need plus a gracious waiver of anchorage or tonnage dues which Colombia could rightfully impose by virtue of her sovereignty over such ports.

KNOX.

[Memorandum.]

DEPARTMENT OF STATE,
Washington, March 19, 1909.

Referring to Mr. Dawson's telegram.

The comma in the Spanish text of article 6 is obviously misplaced. To render the sense of the equivalent English text the comma should be after "*comercio*" and there should be none after "*refugio*." This change is immaterial and can be made by Mr. Cortes and Mr. Root simply initialing it on the margin of the original signed treaty here.¹

Article 6 merely grants the use of Colombian ports as places of refuge (shelter would have been a better word) in case of stress or needs for vessels passing through or bound to pass through the canal.

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article, which (1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war; and (2) by granting the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

I can see no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense of the concluding paragraph of his telegram. We understand that all the article does is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need plus the concession of exemption from anchorage or tonnage dues in such case.

(Note that the privilege is not in favor of American vessels as such, but favors all vessels, of whatever flag, using or bound to use the canal.)

The Secretary of State to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1909.

Referring to your telegram received 18th and department's reply of to-day. We sincerely hope that any difficulty about defining the limits of Jurado will not interfere with the ratification of the treaty.

¹ Mr. Dawson and the minister can do the same at Bogota.

There seems to be some difficulty here about the Panama minister being willing to exchange notes, although I have not yet had an opportunity to talk to him.

KNOX.

The Secretary of State to the Colombian Minister.

DEPARTMENT OF STATE,
Washington, March, 19, 1909.

SIR: In your recent conversations with me you have acquainted me with the telegraphic advices you have received from your Government concerning questions of punctuation and of interpretation which have arisen with respect to article 6 of the United States-Colombia treaty, signed January 9 last, and which questions it would appear advisable to dispose of in order to facilitate the consideration of that convention by the Congress of Colombia.

Minister Dawson has also cabled to me in the same sense.

Upon examination of article 6 I find that the comma in the Spanish text of article 6 is obviously misplaced. To render the sense of the equivalent English text the comma should be after "comercio" and there should be none after "refugio."

This change is immaterial and can be made by Mr. Root and yourself initialing it on the margin of the original signed treaty in this department. Minister Dawson and the Colombian minister for foreign affairs can do the same with the treaty in Bogota.

As to the second point, Minister Dawson writes that the minister for foreign affairs of Colombia requests that he be authorized to hold himself in readiness to write a note saying that the use conceded is understood to be only as that right of refuge recognized by international law to be subject to the usages established by international law with regard to right of refuge and not as involving any breach of Colombian sovereignty over her ports.

As this Government understands it, article 6 merely grants the use of Colombian ports as places of refuge (in the sense of shelter) in case of stress or need, for vessels passing through or bound to pass through the canal.

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article, which (1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war; and (2) grants the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

There would seem to be no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense suggested in his telegram. We understand that all the article does is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus the concession of exemption from anchorage or tonnage dues in such case.

I am sending a telegram to Minister Dawson in the sense of this note, and I trust that this will remove the impediment which has arisen.

Be pleased to accept, sir, the renewed assurances of my distinguished consideration.

P. C. KNOX.

The Secretary of State to the Colombian Minister.

No. 82.]

DEPARTMENT OF STATE,
Washington, March 22, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in which you advise the department that on the 14th instant you received a telegram from your Government announcing that the consideration of the treaties concluded between the United States and Colombia and Colombia and Panama would be suspended and submitted to a newly elected Congress which would be called immediately.

You express your opinion that the treaties will be approved without modification, although a little later than was anticipated.

I have the honor to say in reply that the department appreciates the cordial sentiments you express, and sincerely trusts that the situation in Colombia will not cause untoward delay in the ratification of the treaties, thus consummating the good relationship for which this Government has so earnestly labored and which it so eagerly desires.

Accept, etc.,

P. C. KNOX.

The Colombian Minister to the Secretary of State.

No. 59.]

LEGATION OF COLOMBIA,
Washington, March 22, 1909.

SIR: I have the honor to acknowledge receipt of your communication dated on the 19th instant.

Your letter refers to our conversation regarding the contents of Mr. Dawson's cable to your excellency, transmitting the requirements of the Colombian minister of foreign affairs as to the meaning of Article VI of the treaty between Colombia and the United States signed on the 9th of January last. Said requirements are twofold. On the one part a matter of punctuation, suppressing the comma after the word "refugio" and putting it after the word "comercio." On the other part, as to the meaning of the right of refuge granted to vessels passing through or bound to pass through the canal. The Colombian minister of foreign affairs desiring Mr. Dawson to hold himself in readiness to write a note to him saying that "the use conceded is understood to be only as that right of refuge recognized by international law to be subject to the usages established by international law with regard to right of refuge and not as involving any breach of Colombian sovereignty over her ports."

As to the first point, your excellency accepts the suggestion as to punctuation, mentioning that by such alteration the Spanish text becomes equivalent to the English text. Furthermore, you mention that by initialing the text by Mr. Root and myself here and by Mr. Dawson and the minister of foreign affairs in Bogota all formalities will be fulfilled. I beg, in consequence, to ask your kindly advising me when may I call on you for the purpose of initialing the treaty.

As to the second point, your excellency explains the concession granted, as understood by the American Government, to mean the use of Colombian ports as places of refuge (in the sense of shelter)

in case of stress or need for vessels passing through or bound to pass through the canal, and your excellency further adds —

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article, which (1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war, and (2) grants the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

Your excellency further adds that—

There would seem to be no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense suggested in his telegram. All the article does (you add) is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus the concession of exemption from anchorage or tonnage dues in such case.

Mention is made in your note of your sending a telegram to Minister Dawson in the sense of your note, trusting that it will remove the impediment that has arisen.

It affords me much pleasure, Mr. Secretary, to recognize and duly appreciate your readiness in disposing of the matter in question and the fair and clear manner in which you recognize the position, all which is entirely satisfactory and concurs with the views of my Government as to the complete maintenance of Colombia's sovereignty over her ports not being in any manner affected by the concession as to right of refuge granted in article 6 of the Colombia-United States treaty of 9th of January.

I beg to present, etc.,

ENRIQUE CORTES.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 23, 1909.

Your telegram of March 19. Colombian minister for foreign affairs says that he believes when the assembly approves the treaty with Panama it will adopt a resolution declaring that "Region of Jurado" does not extend south of Jurado River. He says such a resolution would enormously facilitate Government's labors to secure approval. Desires your opinion.

DAWSON.

The Colombian Minister to the Secretary of State.

[Translation.]

No. 62.]

LEGATION OF COLOMBIA,
Washington, March 24, 1909.

MR. SECRETARY: I have the honor to forward to your excellency a copy of the message sent by the President of the Republic of Colombia, Gen. Rafael Reyes, to the national assembly respecting the treaties concluded with the United States of America and the Republic of Panama, from which document your excellency will see the

keen interest with which the President recommends the approval of the treaties to the assembly.

I avail myself of this other opportunity to renew to your excellency the expression of my highest consideration and to subscribe myself the Secretary's very humble obedient servant.

ENRIQUE CORTES.

[Inclosure—Translation.]

Honorable members of the National Constituent and Legislative Assembly:

The minister of foreign relations will lay before you the treaties signed at Washington on January 9 last by our minister, Senor Don Enrique Cortés and the plenipotentiaries of the United States and Panama, the Hon. Elihu Root and Senor Don Carlos Constantin Arosemena.

After all, this important and delicate negotiation began in Washington with the note addressed on the 23d of December, 1903,¹ to his excellency, the Hon. John Hay, Secretary of State of the United States, by the mission over which I had the honor to preside and of which Gen. Don Jorge Holguín, Don Pedro Nel Ospina, and Don Lucas Cabelero were members.

In concluding these treaties our legation at Washington kept within the instruction sent it by the Government through the various ministers in charge of the department of foreign affairs under this administration, and justice demands recognition of the patriotism and intelligence with which our present minister to the United States Senor Don Enrique Cortés, has conducted and carried to a successful issue those negotiations.

I cherish the hope that the Colombian people will, when it knows them, give them its decidedly favorable verdict, since the Government, in concluding them, has borne in mind not only its interests and conveniences but also its mandates.

Indeed, the board of commissioners of commerce, agriculture, and industry of the departments assembled at Bogota in July, 1906, for the treatment of economical questions alive at that time and of great importance, whose members belonged to every political party and are furthermore favorably known for their high political and social standing in our community, unanimously approved at its session of July 12, 1906, the following motion:

The undersigned commissioners of commerce, agriculture, and industry, of the departments of Narino, Cauca, Antioquia, Bolivar, Atlantico, and Magdalena, which are the departments of which some abut on the Pacific and others on the Atlantic Ocean, declare to the Government the necessity of promptly adjusting, in an honorable way acceptable to Colombia, the questions pending with the United States and Panama and asks that this motion, which has been drawn up in accord with the minister of foreign relations, be taken up by the board.

CELEDONIO PIÑERES.
OSCAR A. NOGUERA.
LUCIANO HERRERA.
RICARDO RESTREPO, C.
LEONARDO TASCÓN.

Very respectable organs of the press have welcomed this motion with applause, and public opinion, in possession of the knowledge needed to form judgment on so grave subject, was not long in bringing its preponderating influence to bear in the same sense, as is evidenced by a multitude of documents circulated in printed form, which may reasonably be considered as the result of a great plebiscite.

The Government considering, in a way, that relations with foreign nations are part of domestic policy, conscious of its duties and responsibilities, and at the same time interpreting the national will and looking after the moral and material interests of the country in its charge, never ceased in the last 5 years to labor with the greatest zeal for an honorable and suitable settlement of so delicate a question, and believes it has succeeded in this with the treaties that are submitted to your enlightened examination and are approved by it without any restriction.

R. REYES.

BOGOTA, February 22, 1909.

¹ Printed in S. Doc. 95, 58th Cong., 2d sess.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 26, 1909.

Referring to your telegram of March 19. Notes exchanged and the comma inserted in the Spanish text. The assembly will continue about fortnight. Elective congress will assemble on the 20th July. Country is quiet.

DAWSON.

Minister Dawson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 27, 1909.

Upon the recommendation of the President of Colombia the assembly to-day referred the treaties to Congress in July. This sudden change due to serious threats of civil war and violence against the members of the assembly by the treaty opponents in Bogota and Santander. Congressional elections will be held May 30. If the Government win and peace meantime unbroken Reyes hopes for approval by Congress.

DAWSON.

Minister Dawson to the Secretary of State.

[Extract.]

No. 247.]

AMERICAN LEGATION,
Bogota, March 29, 1909.

SIR: Referring to the subject of my No. 244, of March 8, 1909,¹ and of my telegrams of March 10, March 13, March 14, March 16, March 17, March 18, March 19, March 23, March 26, and March 27—the discussion of the ratification by Colombia of the treaties with the United States and with Panama, and the political disturbances incident thereto—I have the honor to report that on March 6 and 7 many clandestine meetings were held by those opposed to the Reyes government and to ratification, and plans matured for popular demonstrations to be made as soon as the expected majority report of the committee should be presented.

On March 7 I sought a personal interview with the President. His words were confident, but his manner indicated irresolution. He was plainly nervous.

On March 8 the majority report was presented and published, a copy of which is inclosed. It was written by Antonio José Restrepo. Of the 18 members of the committee 14 favored unconditional ratification, 3 ratification with amendments, and 1, Francisco de P. Matéus, ex-minister for foreign affairs and many times plenipotentiary for his country during the last quarter of a century, opposed the treaty en bloc. He read a minority report, a copy of which is inclosed. This minority report was not then published, but the purport of its

¹ Not printed.

inflammatory assertions that the treaties were deceitfully drawn so as to give the ports of Cartagena and Buenaventura to the United States, and that the boundary arbitration provision in regard to the Jurado region meant that the United States and Panama intended to grab all the territory through which a canal up the Atrato could reach the Pacific, spread like wildfire, and his bitter denunciation of the attitude of the United States when Panama declared her independence found a ready echo among the excitable and easily prejudiced people of this capital.

That evening, March 8, the students of the different university schools, with the knowledge and encouragement of many of their professors, including Dr. Luís Felipe Calderón, nephew of the President and brother of Clímaco Calderón, who, as minister of foreign affairs in 1905 and 1906, began the negotiations looking toward these very treaties, made demonstrations throughout the city. On the morning of March 9 the streets were filled with excited crowds of people and bands of students and young men crying "Down with the treaties," "Death to the traitors of Panama," "Death to the United States," "Viva Matéus," "Death to Restrepo," etc. They made demonstrations of approval at the house of Matéus and Nicolás Esguerra and of disapproval at the house of Antonio José Restrepo.

At 2 o'clock in the afternoon, while I was writing in the legation office, about 40 students came to the legation door and, upon its being opened by the servant, they all crowded in. Hearing the noise I went into the reception room and sent them word that I would see them there. They came politely enough and three leaders, representatives respectively of the faculties of law, medicine, and arts, made speeches, the substance of which was that since liberty of the press did not exist in Colombia under Reyes's administration they had no other means of letting me know that they as well as all other honest Colombians were opposed to the treaties because Colombia's recognition of Panaman independence would dishonor and disgrace her, and because the assembly, which had them under consideration, was an unconstitutional body whose members had been appointed by the President and whose servile cooperation was assured by the granting of offices and favors. I briefly called their attention to the fact that it would be improper for me, as a foreign representative, to discuss with private individuals the merits of the treaties; that I could assure them that the Government and people of the United States were animated only by friendly sentiments toward the Colombian people and earnestly desired for them the blessings of prosperity and peace. Happily, the spirit of personal politeness and decorum, so characteristic of Colombians, prevented their saying anything insulting about the United States in my presence, and they retired without anything disagreeable happening. I took no measures to communicate the incident to the authorities, but shortly afterwards heavy detachments of police were placed in front of the legation and at the four corners of the block in which it is situated. About half past 6 in the evening a great crowd assembled at one of these corners, probably with the intention of making a new demonstration, but their leaders were arrested. Throughout the afternoon disorders continued in various parts of the city, and there were numerous arrests.

The excitement, disorders, and arrests continued on March 9, but so far as I could see then, or have since heard, no further attempts were made to demonstrate against this legation. The rioters, however, were with difficulty restrained from acts of violence against members of the assembly. In the afternoon there was an acrimonious debate in the assembly upon a motion to definitely postpone the consideration of the treaties. The minister for foreign affairs was kind enough to send me word that he thought it would be better for me not to be present since I might hear very disagreeable things about my country. Such things were, in fact, said, as I have been informed by members of the diplomatic corps who were present, who also assured me that nothing was said reflecting upon the official or personal conduct of Mr. Barrett or myself. For the most part the Government deputies sat silent except Antonio José Restrepo, who made the mistake of demanding that the galleries be cleared upon the first sign of disagreement with his remarks. This incident greatly excited public feeling against him.

In the afternoon the President offered the ministry of war to Fernández, the ruthless Conservative general who, when in charge in 1901 and 1902, executed so many Liberals. He declined, and Perdomo, another Conservative general, of much the same type and record, was named. Perdomo's appointment was received with a storm of indignation and was withdrawn. Reyes issued a decree intrusting the maintenance of order in the city directly to the minister of war, and the first popular impression was that he was going resolutely to suppress the disorders and pass the treaties. However, it has since transpired that a threatening telegram had just been received from the military chiefs in Santander (a copy is inclosed). Many members of the assembly and the cabinet were becoming frightened, and others thought they saw an opportunity to push Reyes out of the presidential chair and themselves get into control. Friends of Jorge Holguín almost openly advocated his elevation to the Presidency, and it is certain that he strongly advised the President to throw the treaties overboard.

The student demonstrations continued on March 11, and the lower classes also began to take part, and while arrests were numerous the prisoners were in all cases soon released and no really vigorous measures taken to restore order. On that day still another new cabinet was announced, Jorge Holguín being admitted to it and named Designado or successor to the Presidency. In the assembly the discussions of the treaties continued. The minister for foreign affairs, Dr. Urrutia, made a strong speech in their favor, a copy of which is inclosed, but the majority members of the assembly were evidently weakening. Just before the session closed a vote was forced on the first and second articles of the treaty with Panama, and they were approved by 43 to 3: Corral, Quijano Wallis, and Matéus.

On March 12 Gen. Vázquez Cobo was elected to the presidency of the assembly in place of Holguín, who assumed charge of the ministry of the treasury. Telegrams from officeholders all over the country continued to pour in asking that the treaties be ratified, but since it was well known that these telegrams were sent in response to Government solicitation they produced little effect. In the absence of freedom of the press or any other organ of public opinion, it was impossible to tell what the real opinion of the country was, and it was

certain that the populace in the Provinces was even less informed than that in Bogota of the substance and real intent of the treaties. Rumors of disorders at various points were current, and by common consent the assembly dropped the consideration of the treaties and waited for Reyes to take decisive action.

On the morning of the 13th President Reyes made an attempt to reduce the students to a better frame of mind by inviting some of them to the palace, but instead of discussing the treaties the speakers for the students reproached the President for his financial policies, his establishment of monopolies, his suppression of the freedom of the press, and his refusal to give Columbia an elective congress. Living as he has done for the last four years, in an atmosphere of enforced adulation, not accustomed to hear criticisms or suggestions, the President took this in very bad part.

Shortly thereafter he hastily wrote his resignation and sent it to the assembly. The news astounded everyone, and it is impossible even yet to be sure what motives inspired him.

Holguín took oath as Acting President and named a new cabinet, in which Nicolás Esguerra, now the most prominent Liberal in the country, was included. Carlos Cuervo Márquez became minister of war. Holguín at once sent a message to the assembly advising it to refrain from further consideration of the treaties. Urrutia resigned as minister for foreign affairs. Esguerra and another recently appointed Liberal refused to accept. Holguín and Cuervo Márquez ordered the police not to interfere with popular demonstrations, and anarchy broke loose. The long-smoldering hatred of Reyes had free rein; crowds paraded the streets crying "Abajo el tirano," "Mueran los vendidos"; street-corner orators reviled Reyes as a grafter; the crowds stoned the offices of the Correo Nacional and Nuevo Tiempo, the Government subsidized newspapers, and even demonstrated against the apostolic delegate and the archbishop. A howling mob besieged the assembly hall all afternoon, and the members waited until dark and slipped out one by one. Restrepo was run off the streets and his house stoned. About 7 o'clock Dr. Urrutia called on me in a very excited condition to say that Holguín would in fact have the assembly take up the treaties again in a few days and that he himself had therefore continued to remain in office. About the same time Reyes telephoned me privately to come over to the palace at 8 o'clock for consultation. This fact is my principal reason for suspecting that his resignation had always a string to it. Half an hour afterwards came another message that my call would not be necessary. About 9 o'clock a mob wrecked Vázquez Cobo's house.

Mrs. Vázquez was badly frightened, and her husband rushed to the palace and to their faces furiously denounced Reyes, Holguín, and Cuervo Márquez as cowards and traitors to their friends. He threatened to go himself to the barracks and put himself in command of the troops. Reyes asked him if he would accept the ministry of war, and upon his answering in the affirmative, he assumed the Presidency and dismissed Cuervo Márquez. In the meantime a large and excited public meeting of persons prominent socially and politically was being held at the jockey club where violent diatribes against Reyes were uttered. Olaya Herrera who had been very active during the week, and who is believed to have been in communication with revolutionary plotters in Panama, Tumaco, and elsewhere, pro-

posed the formation of a supreme junta with Esguerra at its head, but these proceedings were suddenly interrupted about midnight by the arrival of troops who arrested nearly everyone present and carried them off to prison. Until a late hour the police scoured the streets dispersing and arresting the groups of students and workmen, and several people were killed and injured.

Next morning, March 14, Bogota woke to find Reyes in the Presidency, a state of siege declared, machine guns placed commanding the central plaza, the police and troops armed with Mausers, and Vázquez Cobo, Fernández, and Perdomo, the three most dreaded generals in the country, in command. Olaya Herrera and his lieutenant, Escobar, were sentenced by court-martial to five years in the Cartagena dungeons; Clímaco Calderón was arrested. The malcontents were terrorized, and the city became as quiet as a graveyard.

Monday morning, March 15, I called on Vázquez Cobo. He told me the treaties would be pushed through at once if Panama would consent to define the Jurado region. In the afternoon he resigned as minister of war to reassume the presidency of the assembly, and I had bright hopes of early action. But when I went to see the minister for foreign affairs, to my great disappointment I found that Reyes himself was not disposed to take advantage of the opportunity and assume the responsibility. Speaking officially, the minister said he regretted to have to admit that an unexpectedly strong popular opposition to the treaties had developed, complicated with much dissatisfaction at the fiscal policies of the Government, its centralizing tendencies, its interference with the liberty of the press, and its failure to provide an elective congress. The opponents of the Government had succeeded in arousing the latent popular sentiment of indignation that had never ceased to exist against the Panaman leaders who took part in the declaration of independence and against the United States for its alleged complicity with their acts. Opposition members of the assembly had succeeded in further exacerbating public sentiment by insisting that certain articles of the treaties were susceptible of a construction that would be ruinous to Colombia. They were laying special emphasis on Article VI of the treaty with the United States and the boundary arbitration provision of the treaty with Panama.

The department will get an idea of the general nature of these misrepresentations and charges from the following paragraphs of the minority report, written and signed by F. de P. Matéus, ex-minister for foreign affairs, and who has served as Colombia's plenipotentiary at many posts during the last 25 years:

By article 6 of the treaty Colombia concedes to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise and for all vessels in distress passing or bound to pass through the canal and seeking shelter or anchorage in said ports, being exempt from all payments for anchorage or tonnage dues.

Calvo defines "refuge:" "The protection against an imminent peril, whether of a man being pursued or a ship menaced by a tempest." Refuge being a natural right, an act of humanity, in respect to ships in peril recognized by all nations, there is no reason to refer to it in the treaties. The real intention was to create a servitude of use in our ports in favor of the United States, calling it refuge in order to secure its easy approval. Nevertheless, the article makes a clear distinction between the use conceded to any ships employed in the canal enterprise, including warships and ships in distress which are really in need of refuge.

Calvo says in his Dictionary of International Law that "Use is the right of using, personally, something whose property belongs to another and to participate in its

products. This right includes things movable as well as immovable." The deduction from this doctrine is that as long as the use of our ports is conceded to the United States the latter nation may construct in them docks to shelter their ships and may establish coaling stations on their shores.

Whatever may be the reasons adduced to prove the innocence of this clause of the treaty, which I do not doubt was loyalty and honorably accepted by the Colombian minister, I entertain the profound conviction that the concession of the use of our ports to the United States signifies the loss of the independence of Colombia. It is not long since that the foreign press discussed the intention of the Government of the United States to establish a naval station at Cartagena and another at Buenaventura, in view of ulterior events, as strategical points for the defense of the canal.

Recently an American squadron arrived at Colon, and it is not impossible, once the treaties are ratified, that that squadron will occupy Cartagena and a like measure be shortly adopted in respect to the port of Buenaventura on the Pacific.

The minister said that in the speeches in the assembly reference has also been made to the fact that in the Spanish text of article 6 a comma was placed after the word "refugio" instead of after the word "comercio."

The minister added that he and the rest of the Colombian executives understood perfectly well that the article did nothing more than clearly confirm an already existing practice and right under international law, except that it put Colombia under the obligation of not charging anchorage and tonnage dues. However, many members of the assembly and the public in general insisted upon some additional guarantee on the subject. During the past week he had been pressed to the wall in regard to this matter, and he would greatly appreciate anything I could do to help him out.

I answered that personally I had no doubt that his conception of the meaning of the article in question was correct, but could make no official statement without authority from the Department of State. I suggested that he telegraph Mr. Cortes, instructing him to secure an exchange of reassuring notes between the Secretary of State and himself. The minister said he would, of course, do that as a last resort if I refused to telegraph, but he urgently desired that such notes, if agreed upon, be signed here, so that they could be shown to the members of the assembly. In this connection he spoke of the unfortunate fact, well known to me from my personal observation during the last month, that the profoundest distrust and most carping spirit prevails.

After careful reflection, I decided to comply with his request and told him to write me a note, which reached me the following day. I inclose a copy and translation thereof.

Therefore I telegraphed you, under date of March 17, that the opponents of the treaty were laying stress on the alleged ambiguity of article 6, and that the minister for foreign affairs requested that I be authorized to write a note saying that the use of her ports conceded by Colombia in said article was only that right of refuge which is recognized by international law, subject to the usages established by international law in regard to right of refuge, and not as involving any breach of Colombian sovereignty.

In regard to the provision of the Panama treaty for arbitration as to the "region of Jurado," the minority report had said:

The limits of this region not being determined, the arbiters can put them as far as Cupica Bay on the Pacific, which is the southern end of the Atrato Canal, and thus destroy this interoceanic route which, in the future, might be a source of profit to Colombia.

In making up the arbitral tribunal, the Republic is to name one arbiter and Panama another, and if these two can not agree on the third—and it is clear that such an

agreement can never be reached—he will be named by the President of Cuba, or—what is the same thing—by the Government of the United States. Therefore the tribunal is useless, because Colombia will be defenseless and the region of Jurado ipso facto be given to Panama.

How widespread is this unjust and absurd notion can be judged from the inclosed copy of a letter from the American consular agent in Bucaramanga (Santander) to Consul General White.

The minister said on March 15 that Dr. Cortés had erred in not accepting the Panama representative's suggestion that the arbitration extend to the "Corregimiento de Jurado," as defined in Señor Sosa's pamphlet, viz, to Punta de Marzo, and insisting on inserting "región de Jurado." Though the intention had been to confine the arbitration to a smaller territory, probably only as far south as the village or river of Jurado, the indefiniteness of the phrasing had given the treaty opponents an opportunity to alarm the public. He said Dr. Cortés was already in negotiations with Señor Arosemena, with good prospects of coming to an exchange of notes geographically defining the meaning of the term "región de Jurado," but that he would be grateful if I would inform you of the vital importance of the matter so far as this end was concerned. Accordingly, in my telegrams of March 17 (received by you the 18th) and of March 23, I did so. On March 27 the minister showed me a note received from the Colombian agent in Panama, saying that the Isthmian Government had determined to authorize Señor Arosemena to exchange notes with Dr. Cortés. No confirmation of this has yet come from Washington to Bogota.

From about the 12th it had seemed to me that the popular sentiment against the treaties was being swallowed up in the feeling against the Government and considerations of internal politics and personal ambition. Therefore I was especially anxious to remove the objections as to Article VI and the Jurado clause so as to soften the blow in case Reyes should make up his mind to act vigorously.

On March 16 I saw the minister for foreign affairs and showed him your telegram of March 15, in which you say that it would be deplorable if the outbreak should disturb the ratification of the treaties, and it was brought at once to President Reyes's personal attention. The same morning there was a *te deum* in the cathedral to offer thanks for the reestablishment of order. Telegrams were sent all over the country describing the disorders and arousing the church people to indignation on account of the alleged attacks on the archbishop. Three thousand recruits hurriedly gathered at Cundinamarca and Boyaca arrived this day. The diplomatic corps was invited to a presidential reception in connection with a great official demonstration organized to show the Government's strength, but before going met to discuss what attitude should be taken. Some of the members showed great reluctance at being used by President Reyes, protested that it was dangerous and unwise to be put in the attitude of appearing to lend official sanction to his actions, and some of them even went so far as to suggest that the corps as a body advise him either to adopt a more liberal popular policy or to resign, but wiser counsels prevailed, and we all went to the reception. The President told us that he had consented to remain in power, that the assembly would not accept his resignation, and asked us to telegraph our Governments that order had been reestablished. Thereupon I

sent you my telegram, dated March 16, at 5 p. m., and also telegraphed to substantially the same effect to all our consuls in Colombia.

On March 17 the assembly formally declined to accept President Reyes's resignation, and in the afternoon I saw him and showed him your telegram of March 17 (6 p. m.). He again reassured me that the treaties would be pushed through just as soon as the country had quieted down a little more, thanked us for our kind efforts in regard to Article VI and the Jurado clause, and told me he would be grateful if we would intervene with the Panama Government toward preventing the exportation of arms intended for revolutionary purposes in Colombia and Venezuela from Panama.

The same day Antonio José Restrepo resigned from the assembly and the President issued a message congratulating the country on the reestablishment of peace. A copy is inclosed.

On March 19 the city seemed to have returned to its normal condition; Climaco Calderón and most of the other prominent prisoners, except Olaya Herrera, had been released; the state of siege was raised and the guards withdrawn from around this legation.

On March 20 the President issued a message promising fiscal reforms and the immediate calling of elections for Congress. No move was made, however, by the assembly to take up the treaties and great anxiety continued to be felt in regard to the general political situation.

On March 22 a new cabinet was named, Holguín being changed to the ministry of war, and retained as designado, and the Liberals who had refused to accept being replaced.

On March 23 Dr. Urrutia and I completed our arrangements in regard to the exchange of notes about Article VI. I had received your telegraphic instruction of March 20 authorizing me to write the Colombian minister in the sense suggested, viz, that our understanding is that the first part of Article VI does nothing more than recognize the long-standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus a waiver of port dues, and accordingly sent him the note, of which I inclose a copy. The preparation of this note and the insertion of the initialed comma in the Spanish text was a little delayed because of the necessity of Dr. Urrutia's attendance at the assembly and because he at first thought there ought to be a comma in the English text. It was not until the afternoon of the 25th that we formally met and inserted the comma, although the memorandum or protocol (of which the original is inclosed with translation) setting forth our action was, at his request, dated the 23d.

On the 25th Dr. Urrutia told me that the President was about ready to push the treaties through the assembly, and that it would be done without warning or further debate. On the morning of the 26th the assembly members on whom the President could rely were called to the palace in groups of six or eight, and they signed a document agreeing to complete ratification on the Monday following, namely, March 29. The news of such action spread rapidly to the public, and the opponents at once began quietly, but determinedly, to organize. Their efforts were the more formidable because the trade-unions were very bitter over the killing by the police of some workmen during the riots, and the students cooperated in a body. That

night and the next morning many members of the assembly received warning that they would surely be assassinated if they obeyed Reyes. From the confessionals the archbishop, who is in favor of the treaties and the Reyes Government, received proofs which satisfied him that Bogota would be in revolt within 24 hours. He weakened and wrote a letter to the President most earnestly advising him, in the interest of peace, to withdraw the treaties and call Congress immediately. Whether or not this letter decided the President I have no means of ascertaining certainly, but the fact is that on the morning of the 27th President Reyes announced that he had again changed his mind and that he would recommend that the assembly cease considering the treaties, and that he would call Congress for July 20. I spent the day with my friends in the assembly and the Government endeavoring to prevent such action, but my efforts were fruitless. Inclosed you will find copies of the resolution in regard to the treaties adopted by the assembly.

Throughout the past month I have been in personal or indirect communication with the leaders of all parties. None of the leaders are, in their hearts, opposed to the treaties, but few of them are willing to take any responsibility toward actively helping to their adoption. Among the average politicians there exists, I am sorry to say, a considerable sentiment in favor of delay and of making as many objections as possible, believing that such tactics will result in obtaining material advantages for Colombia and for themselves.

I inclose a number of discussions by various prominent men which have appeared in the newspapers. They are mostly favorable to the treaties, but it must be remembered that in this country, so long accustomed to suppression of the liberty of the press, adverse opinions are more likely to be ventilated in conversation than in the columns of the newspapers. The three Colombians whose opinions would, perhaps, carry most weight with the reflecting public are Clímaco Calderón, Rafael Uribe Uribe, and Francisco de P. Borda. All three have so far refused to write anything for the press. The two former are, in fact, favorable and the last is adverse.

I can offer no prediction as to Congress's final action. If the treaties become the principal issue in the elections, the chances are against their ratification. If internal politics, decentralization, liberty of the press, and fiscal and administrative reforms preoccupy the unthinking and prejudiced public, the treaties may have a chance.

Congress meets July 20, but the treaties will not be taken up until well on in August. In the meantime it is better that this legation be left in charge of the secretary. The pressure upon me to become, as it were, a center of intrigue—to take part in the inner workings of Colombian party politics—has been strong and will become stronger as the parties line up for the elections. I am confident I would continue to be prudent, but I fear misapprehensions and misrepresentations as to my attitude.

Many of the inclosures herewith are not accompanied by translations. Their bulk is so great that there has not been time, with the force at our disposal, to make them. I think, however, they will repay a careful reading in the department when the question of our further attitude in regard to the treaties with Colombia is taken up.

I have, etc.,

T. C. DAWSON.

The Acting Secretary of State to Minister Dawson.

No. 84.]

DEPARTMENT OF STATE,
Washington, April 6, 1909.

SIR: I have to acknowledge the receipt of your No. 241, of February 26 last, in which you forward a copy of the message of the President of Colombia, transmitting to Congress the treaties between the United States and Colombia and between Colombia and Panama, together with the exposition of the treaties by the Colombian minister of foreign affairs.

Thanking you for the document, I desire that you may, in the course of informal conversation with the minister, express your personal gratification for the kindly sentiments toward the United States expressed in Mr. Urrutia's exposition.

I am, etc.,

HUNTINGTON WILSON.

The Secretary of State to Minister Dawson.

No. 87.]

DEPARTMENT OF STATE,
Washington, April 19, 1909.

SIR: Referring to your telegrams of the 23d and 27th ultimo, already confirmed, I inclose for your information copies of the notes exchanged between the Colombian and Panaman ministers at this capital concerning an alleged declaration by the Panaman minister as to the meaning of the words "region de Jurado."

These copies were given to the department by the Colombian Legation.

It is unnecessary to reiterate the ardent hope of this Government that these treaties may be ratified at the earliest practicable moment.

For your own information I will add that the department does not at the present moment feel called upon to express any formal opinion as to the interpretation of the boundary situation between Colombia and Panama.

I am, etc.,

P. C. KNOX.

[Inclosure 1—Translation.]

*The Colombian Minister to the Panaman Minister.*LEGACION DE COLOMBIA,
Washington, March 1, 1909.

MY DEAR MRÁ MINISTER: It is necessary for me to write to Bogota preparing the road for the arbitration we have agreed upon, and it should be most gratifying to me if Y. E. would do me the favor to ratify in writing the words that you employed referring to this at the time we were finishing the discussion on the treaty. I refer to our having agreed to avoid any description of the territory subject of dispute, which might come to darken the deliberations of the tribunal, and having asked what Y. E. understood by the words "region de Jurado," you answered in these or similar words: "As minister of Panama, and a signatory to this treaty, I must state that in my opinion what is called "region de Jurado" is bounded toward the east, to wit, toward Colombian territory, by the course of the River Jurado." And that in consequence we did agree to accept in the writing of the treaty the words "region de Jurado."

I beg Y. E. to excuse my troubling you and assuring Y. E. of my sincere thanks for a gratifying reply. I, etc.

ENRIQUE CORTES.

[Inclosure 2—Translation.]

The Panaman Minister to the Colombian Minister.

No. 3.]

LEGACION DE PANAMA,
Washington, March 6, 1909.

MY DEAR MR. MINISTER AND ESTEEMED COLLEAGUE: I have the honor to acknowledge receipt of your excellency's kind note of the 1st instant, requesting the ratification of certain declarations which I made by word to your excellency before the signature of the treaties between our respective countries respecting my opinion as to what is mentioned in the treaty as the Jurado region. (La region de Jurado.)

Your excellency will remember that on giving my opinion as to what I considered was comprised within "la region de Jurado," I pointed out to your excellency that I was ready to reiterate my words in case that if at the time of submitting the question to arbitration any dispute should arise between the arbitrators touching what is called in the treaty as "la region de Jurado." I am ready to fulfill this declaration when the circumstances require it; I truly regret not to do it at this moment, as I consider it premature since no question has yet been risen about the interpretation of the words "la region de Jurado."

The facts that the treaties between Colombia and Panama, the United States and Panama, and Colombia and the United States have not yet been ratified by all the countries, and that the ratifications have not been exchanged yet, has also influenced upon my mind not to accede to your excellency's wishes.

Accept, etc.,

C. C. AROSEMENA.

The Acting Secretary of State to Chargé Hibben.

No. 89.]

DEPARTMENT OF STATE,
Washington, May 4, 1909.

SIR: I have to acknowledge the receipt of Mr. Dawson's No. 247, of March 29 last, reporting on the events growing out of the attempt made by the President of Colombia to obtain the approval of the Colombian Congress of the treaties concluded by the Republic of Colombia with the United States and Panama.

The department desires to express its commendation of Mr. Dawson for his admirable and illuminating report on the complicated situation of affairs in Bogata.

I am, etc.,

HUNTINGTON WILSON.

Chargé Hibben to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, May 10, 1909.

A manifest issued by the President of Colombia this evening referring to Holguin's action of March 13 (see telegram of the legation of the 14th March), postpones consideration of the treaties until ordinary session of Congress next February.

HIBBEN.

Chargé Hibben to the Secretary of State.

[Extract.]

No. 262.]

AMERICAN LEGATION,
Bogota, May 13, 1909.

SIR: I have the honor to refer to this legation's Nos. 259 and 261,¹ of April 28 and May 5, respectively, in regard to the political situation of this country, and to my cipher telegrams of the 10th and 12th

instant, respectively, reporting the action of the Government of Gen. Reyes in withdrawing the United States-Panama-Colombia treaties from consideration by the special Congress called for July 20, for which the elections are to be held the 30th of this month. With reference particularly to my first telegram, I have the honor to report that the situation of the present administration is of the gravest. I inclose herewith copy of the manifesto of the President of the Republic, to which reference was made in the telegram in question, accompanied by a translation thereof. The initial inconsistency between the statements made in this document and those made me yesterday by Dr. Urrutia is characteristic of the course which Gen. Reyes has seen fit to adopt—a course of vacillation, which has led him to this final act of sacrificing the treaties in the hope of maintaining his position as personal head of the Government and virtual autocrat of his country.

It is necessary for a clear understanding of the present situation to return to the moment of the departure of Mr. Dawson. From that time scarcely a day has passed without the establishment of some new newspaper—organs, for the most part, of the opponents of the Government. Shortly after Mr. Dawson left a paper called "El Debate," the organ of the students who made their way into the legation on the 9th of March, and a strong Liberal journal, supporting Dr. Nicolas Eaguerra for President to supplant Gen. Reyes, began a cowardly attack upon Mr. Dawson, posting up throughout the city a placard purporting to be a certificate of a number of these students implying that Mr. Dawson had made a false statement in denying their report of his words to the students on the 9th of March. The journal was today suppressed as a result of a protest of the dean of the diplomatic corps. The attack on Mr. Dawson was an attack, through him, upon the treaties and upon the Government. The treaties have been, indeed, used as a political weapon against the Government. From day to day articles have appeared bitterly assailing the United States, and even going so far as to advocate the severance of diplomatic relations.

I had no intimation of the purpose of the Government to withdraw the treaties and knew of the action only by having seen the manifesto posted at the street corners on the evening of the 10th instant. I had just talked with the minister of foreign affairs half an hour before, but he had told me nothing. The following day I waited word from him until 5 o'clock in the evening. When he finally sent word that he had something to communicate to me I was engaged with the Ecuadorean and Italian ministers, and considering it expedient then to wait until I could see the results of the manifesto on the antiadministration press in the morning, I availed myself of this excuse to reply that I would call at 9 the succeeding day. The opposition papers, however, contained little comment.

Dr. Urrutia wished to show me the telegram which was sent to the Colombian legation at Washington after I left the ministry, with instructions to assure the department of this Government's continued support of the treaties. The minister had no reason to offer for not having informed this legation of the administration's contemplated action earlier. He stated, however, that the President had become convinced that the treaties could not pass the Congress in July, and had decided, in order to avoid having them rejected, to postpone

their consideration until the meeting of the regular Congress in February, 1910. He had only the vaguest reason to give for this belief. I asked him if he had any cause to believe that the treaties would more readily pass the Congress of 1910 than the present one, and he replied that he hoped so, but that it could not be certain. He added that the President feared civil war if the Government continued to support the treaties, and that he had been assured by Mr. Dawson that our Government did not desire to bring such a disaster upon the country. When I pointed out, however, that if it were as certain as he seemed to believe that the treaties could not pass the present Congress there would scarcely be occasion for civil war, he withdrew the term and substituted grave disorders at the elections. I then asked him what he wished me to give my Government as the reason for this official action in thus withdrawing the treaties from consideration, and took down his words in Spanish, as follows:

[Translation.]

I believe that if the Government were to submit the treaties to the July Congress there might be a general commotion. The treaties are being used as an electoral weapon against the Government. The latter hopes for a change in the situation before the regular session of the Congress in February.

This was a final form, much altered before it was reached. Of it I sent a translation in my cable of yesterday.

Dr. Urrutia went from this interview to the President. Yesterday afternoon I know, privately, that the President made every preparation to leave the country, Holguin remaining in the exercise of the executive functions. He, however, again changed his mind and decided to remain. Dr. Urrutia, who alone, I believe, has been of consistent good faith in his attempt to secure the ratification of the treaties, has tendered his resignation, which at this hour has not been accepted, but I believe will be, he being made to appear as the scapegoat of the withdrawal of the treaties in the eyes of our Government. I inclose herewith, accompanied by translation, a cutting from *La Plume Libre*¹ of yesterday's date, attacking Dr. Urrutia personally for his efforts in behalf of the treaties.

I transmit at the same time, without translation, for lack of opportunity to make it, an article¹ by one of the students, who have always been so bitter against the treaties, which expresses much of the sentiment of those opponents of Reyes, into whose hands the treaties will fall should the Government be defeated at the coming elections, which now seems likely. The tone of the article shows how little hope there would be of ratification by the more radical liberals. I inclose a translation of a placard posted up yesterday throughout the city, and emanating from one of the liberal electoral organizations, advocating the representation in the approaching Congress of the "Department of Panama"¹ by one of the men who has worked faithfully for the reincorporation of Panama with Colombia.

I have, etc.,

PAXTON HIBBEN.

¹ Not printed.

[Inclosure.—Translation.]

TREATIES.

The Government postpones the discussion of the treaties with the United States and with Panama until 1910.

MANIFEST.

The day drawing near on which the Colombian people will exercise their right of suffrage in accordance with the constitution and laws of the Republic, I consider it opportune and appropriate to address my compatriots, as much to express my desire that this right be exercised in a way truly correct and republican, as to inform them of the purposes of the Government and of the actual situation of the country.

There have been received notices by telegraph from all the departments according to which the citizens have registered peacefully and with interest in the exercise of the ballot in the elections of the 30th of May, and have fulfilled the directions of the Government by inspiring confidence that these elections will take place in complete peace, that the popular vote will be respected, and by avoiding all commotion and disturbances which might limit or harm this right.

These measures and the confidence which the public has and should have in the Government's keeping of its promise to make the ballot respected, have produced a general situation of complete calm and the certainty the same will reign on the day of the election.

The country is presenting an example of prudence, of patriotism, and of civilization, which inspires faith in its future and the conservation of peace. It is to be hoped, therefore, that the coming election will be the first to be held in this country in complete order, without imposition or chicanery, to elect representatives of the people and not representatives of political parties. For the sake of my self-respect and the respect I owe my compatriots and, above all, my country, it is my vehement desire that personal government be avoided.

In the address of the 1st of January and in the presidential messages directed to the national assembly during its last session, I set forth the appropriateness and urgent necessity of calling a congress of popular election as soon as possible, which will meet the 20th of this July, thus fulfilling the purpose clearly stated to the governors in telegraphic circular of January 5 last, known throughout the country.

The Government has received, and is grateful for, the patriotic manifestations, made by distinguished citizens of the capitals and of important cities of the Departments, recognizing the honesty of its initiative in calling Congress and applauding this measure.

The urgency of the meeting of the legislative chambers proceeds principally from the necessity of attending to important economic and fiscal matters, both national and departmental, in view of the fact that these latter corporations must reorganize their administration, as provided in law 7, of 1909, on administrative decentralization.

In respect of the treaties celebrated with the United States and with Panama, a considerable part of national opinion, strengthened by a certain number of reasons, has formulated arguments against some of the principal stipulations of the negotiation in question.

The Government, after long consideration and taking into account the opinion of experienced and capable persons, approved these treaties, considering them suited to the permanent interests of the country, given the existing condition of events; but as, in treating of the matter, the grave antecedent circumstances can not be forgotten, the Government considered, duly, as the designado in charge of the executive power put it in the message which he addressed to the national assembly the 13th of March last, that its resolution ought not to be hastened, but that it should wait the time necessary for the whole nation to study them and to form the judgment which, in its lofty opinion, they merit.

In this order of ideas it did not hesitate to propose to the honorable assembly that it put off its examination until the next session of Congress.

This proposition was approved by that lofty body with visible evidences of applause.

This belief, far from lessening, has grown on the Government over which I have the honor to preside to a point where it is conceived that more time should be given the nation to study these treaties with all the maturity that its importance requires, and that it should be in its regular sessions of 1910 that Congress should occupy itself with them.

The importance of the matters in which the legislative power shall be occupied imposes the necessity that the election of its members should fall upon citizens free of prejudices and party interests, who will occupy themselves with those of the country in general, as well as with those in particular of the regions whence they have been elected, since the departmental and municipal needs to be properly organized.

Annual sessions of Congress, whose duty it is to decree the taxes and the expenditures and to pass the laws necessary for the good progress of the administration, will give surer solidness to a Government really representative and of popular choice.

Peace is solidly assured and the program of the present national administration, of which the President should be the chief and not a political party program, which endangered the life of the present head of the Government, is to-day upheld and sustained by the whole nation, and we should hope that for the nation's good it may continue in the future.

R. REYES.

BOGOTA, May 10, 1909.

Chargé Hibben to the Secretary of State.

No. 268.]

AMERICAN LEGATION,
Bogota, May 27, 1909.

SIR: I have the honor to acknowledge the receipt of the department's No. 87, of the 19th ultimo, inclosing, for the information of the legation, copies of notes exchanged between the Colombian and Panama ministers at Washington concerning an alleged declaration by the Panaman minister as to the meaning of the words "región de Jurado" in the Panama-Colombia treaty.

I may say in this connection that, as will be seen from the inclosures No. 2 in this legation's dispatches Nos. 261 and 264,¹ an entirely erroneous impression is abroad in this country in regard to the meaning of this phrase which has, more than any one element save the general hostility to the Government of President Reyes, served to produce the present widespread opposition to the treaties and to inflame public feeling against the United States.

I have, etc.,

PAXTON HIBBEN.

The Acting Secretary of State to Chargé Hibben.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 11, 1909.

Your dispatches May 13 to 19. The Government of the United States views with relative indifference the question of the ratification of our treaties by Colombia and Panama, whose interests are apparently much more concerned. This Government has felt sanguine of their ratification only owing to the general desirability of settling the questions involved, and particularly as being beneficial to Colombia and Panama rather than to the United States. In view of the absurd distortion of this situation by public clamor the legation should make the above attitude well known and for the rest should maintain an impassive and dignified attitude.

WILSON.

¹ Not printed.

Minister Squiers to the Secretary of State.

No. 508.]

AMERICAN LEGATION,
Panama, June 17, 1909.

SIR: Referring to department's cipher cable of June 12,¹ last, stating department's views on the attitude of the Colombian and Panaman Governments toward ratification of the Columbian-Panama-United States treaty, I have the honor to say that I have read a translation of the cable to Mr. Lewis, minister for foreign affairs, who said that so far as his Government is concerned everything has been done, and the treaty now only lacks the approval of the Colombian Government. He further said that the Colombian Government, of the three contracting parties, has the most to lose through failure to ratify, and that it would be impossible to negotiate another treaty, in the event that this one fails of ratification, containing the same advantageous provisions.

I have, etc.,

C. T. SQUIERS.

Minister Northcott to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, September 29, 1909.

Minister for foreign affairs of Colombia stated verbally to-day and promised to write a note stating it is the desire of Colombia to abandon the present treaties, because it is quite sure that they would be rejected by the Congress, and, further, that it is the desire of Colombia to enter into negotiations for some other treaty with the United States.

Instruct me as to my reply to the official note.

Colombian minister for foreign affairs also stated verbally that he desired that the new treaty, if our Government be willing to make one be negotiated here.

NORTHCOTT.

Minister Northcott to the Secretary of State.

No. 12.]

AMERICAN LEGATION,
Bogota, October 1, 1909.

SIR: I have the honor to refer to my cipher telegram of the 29th ultimo and, in that connection, to report that about two weeks ago while attending the weekly reception of Dr. Carlos Calderón, the minister for foreign affairs, in company with Mr. Paxton Hibben, the secretary of the legation, Dr. Calderón informed us that the Colombian Government had concluded that it would be useless to present the United States-Panama-Colombia treaties to the present session of Congress, as they would undoubtedly be rejected. Dr. Calderón then presented a written memorandum in Spanish, copy and translation of which is inclosed herewith, and asked me to agree to sign it as showing the existing condition of affairs between the

¹ Probably means telegram of June 11, ante.

two countries. I told Dr. Calderón that I would take the memorandum and consider it after a translation was made. On the following Wednesday, having been informed unofficially of the appointment of Dr. Francisco de Paul Borda as minister to the United States, Dr. Borda being the father-in-law of Dr. Calderón, in company with Secretary Hibben I called on Dr. Calderón and suggested to him that in view of Dr. Borda's appointment and near departure to Washington, it might be well to postpone consideration of the memorandum he had presented until Dr. Borda could talk matters over with you, to which Dr. Calderón replied that he would rather have the matter settled here before Dr. Borda's departure.

On Wednesday, September 29, again in company with Secretary Hibben, I called on Dr. Calderón and informed him that I did not feel justified in signing the memorandum in question, for the following reasons:

First, that no matter how strongly he and I might be convinced, from indications and observations, that the treaties would not be ratified by the Congress of Colombia, we could not, as representatives of our respective countries—and I, especially, as diplomatic representative of the United States, had not the right to—prejudge the action of the Congress and assume that it would reject treaties entered into and signed by duly authorized representatives of the respective countries, treaties already ratified by the Senate of the United States, and to the securing of the ratification of which the executive branch of the Government of Colombia is morally bound.

Second, that in the event that the Colombian Congress reject the treaties, I had not been instructed, nor was I informed, as to the wishes of my Government on the subject of entering into any further negotiations; that the present treaties were regarded by us as being of more benefit to Colombia than to us, and that under the circumstances I did not feel authorized to state that we were ready to enter into new negotiations, in the absence of express instructions from my Government.

I then told Dr. Calderón that I would gladly communicate the situation to the department by cable and request instructions.

After considering the matter for some time, Dr. Calderón stated formally that as representative of the Colombian Government he now gave me notice that his Government desired to cease all further consideration of the treaties because of the impossibility of securing their ratification by the Congress, and desired to enter into negotiations, here in Bogota, for the making of a new treaty with the United States, and requested that I notify my Government of his statement. I then asked Dr. Calderón if he would kindly write me a formal note containing his statements. This he said he would do at once. Up to the time of the sending of this dispatch the note promised by Dr. Calderón has not been received by the legation.

On returning from the ministry for foreign affairs I sent my cable of the 29th ultimo.

I am of the opinion that the present Colombian Government does not desire, for political reasons, to urge the ratification of the treaties, and that if it did so desire it is not strong enough to secure such ratification.

The general feeling in the country is very bitter against the treaties and against us as a nation, and at the present time the majority of

the Senate now in session is undoubtedly against the treaties. This is, however, a country of startling and unexpected political changes, and it is impossible to foretell what may happen.

It is hard to see how the present financial condition of Colombia could be worse than it is, and the financial considerations involved in the treaties may have a telling effect in their favor in the near future, though there is no indication of it at the present time.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure.—Translation.]

In Bogota, the — day of —, 1909, meeting at the ministry of foreign affairs (of the Republic of Colombia), the minister for foreign affairs, Dr. Carlos Calderón, and the Hon. Elliott Northcott, envoy extraordinary and minister plenipotentiary of the United States of America, the minister for foreign affairs said:

The tone of frank friendliness which has characterized all the acts of the minister of the United States brings to the Colombian mind the conviction that that Nation still maintains the ample spirit of equality which in times past has served as a base of relations between them.

In view of these sentiments, the honorable minister of the United States has manifested that, having celebrated in Washington, on the 9th day of January, 1909, a treaty to facilitate the direct settlement of the questions pending on the declaration of independence of the Colombian Department of Panama November 3, 1903, and to define the relative position of Colombia with respect to the canal which the United States is constructing across the Isthmus in virtue of a convention celebrated with the so-called Republic of Panama, and this treaty, having been postponed to consideration by the Congress of Colombia, the Government of the United States wishes to know what are the intentions of the Government of Colombia in reference to the consideration of this pact by the legislative body in actual session.

The minister for foreign affairs acceded to the desires of the minister of the United States, stating that the Government of Colombia, wishing to be agreeable to the United States, is ready to satisfy the desires of said Government in this respect.

But, as the minister of the United States may have observed, there is a popular opinion, of which the opinion of the legislative body is but an echo, that the treaty of Washington of January 9, 1909, be not accepted, and for the same, if this treaty were at present placed before the legislative body, it would certainly be disapproved.

The minister of the United States stated that his Government in this particular matter has no other interest than that of Colombia, and that it has noted, as far as has been possible, the dominant opinion in the Republic in reference to this compact so many times mentioned, the which is motive enough that the Government of the United States should not insist that this treaty be considered by the Congress if, as has been affirmed, the desire of its Government consists in, above all, satisfying the desires and the rights of the Republic of Colombia, and not of insisting that it enter into negotiations which do not have the spontaneous approval of the nation.

The minister for foreign affairs observed that finding the two Governments at one in just purpose and animated by the firm intention of satisfying their reciprocal rights, the laying aside of the consideration of the treaty of January the 9th, 1909, brings as a consequence that the relations of all kinds which exist between this Republic and the United States and the regulation of all rights between them shall be governed by the treaty of Washington, December 12, 1846, whose validity neither of the contracting parties has placed in doubt, which, in his opinion, in the face of the necessity of defining the reciprocal situation of the two nations and their respective rights and obligations for acts which have been matter for complaint on the part of Colombia, there arises the necessity for an agreement as to the manner in which this is to be done by virtue of special negotiations which shall carry both the legal relations of the two countries to the status existing before the project of the treaty of 1909 and the protocols of Cartagena and Washington, which served as its base; and from this there arises the necessity of knowing, as a preliminary, whether the two parties who have such a treaty to celebrate are ready to open negotiations with the end to a settlement of the obligations which each should fulfill.

The honorable minister of the United States agreed heartily in the sentiments expressed by the minister for foreign affairs—that is, that the Government of the United States is found willing to open the negotiations which may be necessary to the satisfaction of the rights of Colombia and will receive and take into consideration the bases which may be submitted for such negotiations, to which the minister for foreign affairs replied, offering to present the honorable legation the bases of the convention, which, in his opinion, conform to the honor and highest rights and interests of Colombia and of the United States.

The Acting Secretary of State to Minister Northcott.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 4, 1909.

Your September 29, 6 p. m. In conversation you may say to the Colombian minister for foreign affairs that the treaties of the United States with Colombia and Panama were negotiated in connection with and in facilitation of the settlement between Colombia and Panama, which the United States used its friendly offices to bring about. The three treaties so negotiated stand or fall together. No substitutionary treaty could be considered without harmonious agreement of all three parties. You may express your personal belief that no such agreement could be reached on terms as advantageous to all three as the treaties now pending, if, indeed, in the light of subsequent happenings, any tripartite agreement were likely.

ADEE.

Minister Northcott to the Secretary of State.

No. 14.]

AMERICAN LEGATION,
Bogotá, October 7, 1909.

SIR: I have the honor to report that on the 4th day of October the legation received from Dr. Carlos Calderón, minister for foreign affairs, the note referred to in this legation's No. 12 as being promised in a verbal interview with the minister. On Wednesday, October 6, in company with Secretary Hibben, I had another interview with Dr. Calderón, and in accordance with the department's cable of 12 noon, October 4, 1909, informed him "that the treaties of the United States with Colombia and Panama were negotiated in connection with and in facilitation of a settlement between Colombia and Panama, which the United States used its friendly offices to bring about." That "the three treaties so negotiated stand or fall together," and that "no substitutionary treaties could be considered without harmonious agreement of all three parties." I also expressed the personal belief that no such agreement could be reached on terms as advantageous to all three as the treaties now pending, if, in the light of subsequent happenings, any tripartite agreement were likely.

Dr. Calderón replied that it had been his conception that an agreement between Panama and Colombia would follow upon the completion of the negotiations which he had proposed between Colombia and the United States, but that in a day or two he would write the legation a note expressing the Colombian Government's views as to the treaty with Panama, and would then like an answer in writing to his note.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure.]

The Minister for Foreign Affairs to Minister Northcott.

MINISTRY FOR FOREIGN AFFAIRS,
Bogota, October 2, 1909.

MR. MINISTER: In the various conferences which I have had the honor to hold with your excellency in reference to the treaty, signed by the Secretary of State of the United States, the Hon. Elihu Root, and the Colombian plenipotentiary, Señor Cortés, on the 9th of January, I have thought it opportune to advise your excellency that the consensus of public opinion in this country is notoriously adverse to that compact.

In the judgment of the Colombian Government, if this were placed before the legislature it would be disapproved without vacillation.

The Colombian Government, desirous of considering in the most friendly way in its power the questions originating from the proclamation of independence made by the Colombian Department of Panama, November 3, 1903, has delayed until now the presenting of this treaty, to which I have referred, to the Congress for its consideration, and desires that your excellency inform it whether the Government of the United States, in view of existing circumstances, would be pleased to have the Government of Colombia abandon the submission of this treaty to the Congress for its consideration. In case that the Government of the United States, persisting in the desire manifested by your excellency, of taking under consideration, in questions relating to the interests of Colombia, the desire of this nation, expressed by its constitutional organs, prefer that the Government of Colombia abandon the submission of the treaty to legislative approval, this ministry will be found ready to enter into new negotiations with your excellency in relation to those questions to which we have alluded if the Government of the United States is similarly disposed.

I gladly avail myself, etc.,

CARLOS CALDERÓN.

Minister Northcott to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, October 13, 1909.

Your cipher telegram, October 4, 12 noon. A note has been received from the minister for foreign affairs of Colombia, stating that, in the conception of the Government of Colombia, the abandonment Root-Cortés treaty will virtually eliminate the treaty with Panama, and that, in the event of this abandonment, Colombian Government will present the legation with a statement of the bases upon which it would be willing to enter into negotiations with the United States if a favorable reply should be made to the note of Colombian minister for foreign affairs, contents of which in my telegram of September 29, 6 p. m.

Colombian minister for foreign affairs to-day verbally stated that Colombian Government has no intention to enter into negotiations with Panama until after the treaty with the United States is completed, if then, and that whether or not Colombian Government would be willing to enter into negotiations with Panama will depend upon the character of the arrangement with the United States.

I replied verbally, according to my instructions your cipher telegram October 4, 12 noon. Colombian minister for foreign affairs, however, is desirous of written reply to his note referred to in my telegram of September 29, 6 p. m.

I shall wait for instructions.

NORTHCOTT.

The Acting Secretary of State to Minister Northcott.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1909.

Your October 13, 5 p. m. The treaty between United States and Colombia was negotiated in order to facilitate the negotiation between Colombia and Panama, and to that end the United States graciously conferred favors upon Colombia in regard to the use of the canal and gave Colombia other advantages as equivalents for the agreement between Colombia and Panama besides aiding Panama to carry out the engagements of the Colombia-Panama treaty. The statement of the Colombian minister for foreign affairs that the abandonment of the Root-Cortes treaty will virtually eliminate the treaty with Panama means in effect that the consideration upon which the favors of the Root-Cortes treaty were predicated is to be treated as nonexistent, thus eliminating the initial reason for a new treaty between United States and Colombia. It would be impossible for the United States to impose, by independent convention with Colombia, any conditions constraining the free hand of Colombia and Panama in settling their questions by mutual agreement. Whether the United States would be in a position to make any treaty with Colombia would depend on ascertainment of the terms on which Colombia and Panama may agree, and then the United States could only consider such arrangement with Colombia as might facilitate the Colombian-Panama agreement. In short, the whole tripartite accord would have to be done over again, with little or no prospect of reaching conclusions as favorable to all three parties as those which Colombia proposes to set aside. In the light of subsequent events it is more than doubtful if even similarly favorable concessions by us to Colombia and Panama could gain the approval of the United States Senate. For these reasons the Government of the United States must decline to acquiesce in wiping out the tripartite treaty, and can not enter upon a separate negotiation with Colombia alone.

ADEE.

The Acting Secretary of State to Minister Northcott.

No. 15.]

* DEPARTMENT OF STATE,
Washington, October 28, 1909.

SIR: The department has received your No. 12 of the 1st instant inclosing copy and translation of a memorandum which the Colombian minister for foreign affairs requested you to sign with him, proposing that as it would be impossible to obtain the consent of the Colombian Congress to the ratification of the United States-Panama-Colombia treaties, those treaties be dropped and negotiations be opened at Bogota.

The department commends your action in declining to sign the memorandum-protocol.

I am, etc.,

HUNTINGTON WILSON.

Minister Northcott to the Secretary of State.

No. 20.]

AMERICAN LEGATION,
Bogota, October 29, 1909.

SIR: I have the honor to report that in accord with the instructions contained in the department's cable of October 23, 1909, on Wednesday last, October 27, 1909, accompanied by Secretary Hibben, I delivered to Dr. Carlos Calderon, Colombian minister for foreign affairs, an answer in writing to his notes suggesting the abandonment of the tripartite treaties and the opening of negotiations for a new treaty with the United States. A copy of my note is inclosed herewith.

At the interview which took place on the delivery of the note, immediately after receiving and reading it, Dr. Calderon stated verbally, that the present Colombian Government could not enter into negotiations of any kind with Panama, as it (the Government of Colombia as at present constituted) regarded the United States as being solely responsible for the separation of Panama. To which statement we replied that that view was not conceded by the United States in the slightest degree.

At a dinner given by the President at the palace last night, which we attended, Secretary Hibben had personal and unofficial conversations with Dr. Borda, the newly appointed Colombian minister to the United States, and with Dr. Calderon. These conversations Mr. Hibben will report to you in person.

The feeling here is still very strong against the United States, and if submitted to the present Congress the treaties would, in all probability, be overwhelmingly rejected.

The present session of Congress here is expected to end within two weeks, and it is not now generally believed that the Colombian Government will submit the treaties to the present session.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure.]

*Minister Northcott to the Minister for Foreign Affairs.*AMERICAN LEGATION,
Bogota, October 26, 1909.

MR. MINISTER: In comment upon the memorandum with which your excellency presented me on the 22d of September, in regard to a conversation which I had had the honor of holding with your excellency as to the abandonment of the tripartite treaties signed in Washington on January the 29th, last, by the plenipotentiaries of the Republics of Colombia and Panama and the United States of America, and in reply to your excellency's courteous note of the 2d instant, and of the subsequent personal note which your excellency was good enough to send me on the 9th instant, I have the honor to reply to the proposition for the negotiation of a new convention between Colombia and the United States, as a consequence of the abandonment, proposed by your excellency, of the present treaties, under instruction of my Government, as follows:

The treaty of January 9 between Colombia and the United States was negotiated in order to facilitate the negotiations between Colombia and Panama, and to that end the United States conferred favors upon Colombia in regard to the use of the canal and gave Colombia other advantages as equivalents for the agreement between Colombia and Panama, besides aiding Panama to carry out the engagements of the Colombia-Panama treaty.

Your excellency's statement in the personal note to which I have referred, that the abandonment of the Root-Cortes treaty will virtually eliminate the treaty with Panama means, in effect, that the considerations upon which the favors of that treaty were predicated is to be treated as nonexistent, thus eliminating the initial reason for a new treaty between the United States and Colombia. It would be impossible for the United States to impose, by independent convention with Colombia, any conditions constraining the free hand of Colombia and Panama in settling their questions of mutual agreement.

Whether the United States would be in any position to make any treaty with Colombia would depend upon the ascertainment of the terms on which Colombia and Panama may agree and the United States could only consider such an agreement with Colombia as might facilitate the Colombia-Panama agreement. In short, the whole tripartite agreement would have to be done over again with the probability of no prospect of reaching conclusions as favorable to all three parties as those which your excellency's Government proposes to set aside. Indeed, in light of subsequent events it is more than doubtful if even similarly favorable concessions by the United States to Colombia could gain the approval of the United States Senate, as I have had the honor to point out to your excellency in conversation on several occasions.

For these reasons, the Government of the United States must decline to acquiesce in wiping out the tripartite treaty and can not enter upon a separate negotiation with Colombia alone.

I avail, etc.,

ELLIOTT NORTHCOTT.

The Secretary of State to Minister Northcott.

No. 17.]

DEPARTMENT OF STATE,
Washington, November 4, 1909.

SIR: The department has received your No. 14 of the 7th ultimo, relative to the proposed treaty between the United States, Colombia, and Panama, and in reply you are referred to the cabled instructions of October 4 and 23, as defining the department's attitude on the subject.

I am, etc.,

(For Mr. Knox.)

HUNTINGTON WILSON.

Minister Northcott to the Secretary of State.¹

[Telegram.]

AMERICAN LEGATION,
Bogota, January 5, 1910.

Colombian minister for foreign affairs requested me verbally to ask my Government if United States and Panama would agree to submit question of separation of Panama from Colombia to vote of citizens of Panama. Terms of settlement of all questions according to the result of vote to be previously agreed upon by the three Governments. The interests of the United States in Canal Zone in no event to be affected.

¹ MEMORANDUM ADDED IN THE DEPARTMENT OF STATE.—Referring to Mr. Northcott's communication of the Colombian request that the question of a separation of Panama from Colombia be submitted to a plebiscite vote, you will find in Foreign Relations for 1903, p. 333 et seq., that the several municipalities of Panama unanimously approved the ratification of the canal treaty by the Provisional Government of Panama.

The people of Panama also elected, afterwards, representatives to a congress of the Republic by almost unanimous votes.

These two acts were as completely a ratification of the separation from Colombia as the election of republican chambers in France in 1871 was a ratification of the downfall of Napoleon and the creation of a Republic.

Colombian Government claims it is impossible to secure ratification of Root-Cortes treaties without thereby causing [revolution?]. I believe this is true as public opinion now stands, and that the present proposition is made with the expectation of vote being for separation, but with the hope that a vote of Panama will so far satisfy Colombian people as to allow ratification of some satisfactory treaties.

NORTHCOTT.

Minister Northcott to the Secretary of State.

No. 53.]

AMERICAN LEGATION,
Bogota, February 18, 1910.

SIR: On the 5th of January last I had the honor to send you the following code cable.¹

Since then, on every occasion that I have seen him, Dr. Calderon, the Colombian minister for foreign affairs, has inquired anxiously of me as to what reply I have received. Not having received your instructions up to this time, I have so told him, but I should like very much, if it meets with your approval, to be cabled upon receipt of this, if no directions have as yet been sent, what reply to make.

I have, etc.,

ELLIOTT NORTHCOTT.

The Acting Secretary of State to Minister Northcott.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 24, 1910.

Answering your dispatch No. 53 and your January 5, 5 p. m., you are informed that the attitude of the department as outlined in its telegram of June 11, 1909, remains unchanged.

WILSON.

Minister Northcott to the Secretary of State.

No. 81.]

AMERICAN LEGATION,
Bogota, May 13, 1910.

SIR: I have the honor to report that on Wednesday last, May 11, while calling on the Colombian minister for foreign affairs, in company with Secretary Frazier, the minister handed me a note dated December 20, 1909, dealing with the tripartite treaties. The minister stated at the time that he had held the note hoping that something would come of his suggestion as to a plebiscite, but that he now thought it best to deliver it.

Copy of note referred to and translation, together with my reply thereto, are inclosed.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure 1—Translation.]

*The Minister for Foreign Affairs to Minister Northcott.*FOREIGN OFFICE,
Bogota, December 20, 1909

MR. MINISTER: Referring to the esteemed note which your excellency addressed to me on the 26th of October last regarding the views of the Government of the United States upon the treaties of January 9 last, it is my duty to allude to the friendly sentiments which have suggested to the Government of Colombia the idea of omitting the treaties of Washington rather than to ask of the Colombian Congress an approval which in all probability would be refused.

The Government of Colombia does not consider it an opportune moment to explain to your excellency the motives of the obligations incurred in the treaties in behalf of this Republic, but in view of the declarations made to the Cabinet in Washington from 1903 until last year, in relation to the events which in 1903 determined the independence of the Isthmus of Panama and of the solemn agreements binding the two Republics, they (the Government of Colombia) believe it necessary to state that the true purpose of these treaties is, in their opinion, to define the legal relations which have arisen between the three contracting parties as a result of the events above referred to; that is to say, the monetary advances to Colombia, stipulated in the treaties of the 9th of January, did not have and can not have the character of favors but of compensation or indemnity for acts which in their judgement, have inflicted preudice and caused injury to their duly acquired rights.

Without reproducing at present the extensive and weighty arguments of various kinds, with which Colombia has supported her demands before the Government of the United States, I believe it nevertheless to be my duty to remaind your excellency that the character which must be given to negotiations through which an agreement may be reached upon pending questions is not a matter of the first importance to the Government of Colombia, so long as the honor and vital interests of the contracting parties are not compromised.

In the meantime I beg your excellency will accept the manifestations contained in this dispatch as an expression of the sincere desire which animates the Government of Colombia to facilitate an agreement which may satisfy every legitimate right and every consideration of honor involved in the differences existing between the two States.

CARLOS CALDERÓN.

[Inclosure 2—Translation.]

Minister Northcott to the Minister for Foreign Affairs.

No. 41.]

AMERICAN LEGATION,
Bogota, May 12, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's esteemed note of December 20, 1909, which your excellency was good enough to hand to me personally yesterday. In reply I beg to say that I have noted your excellency's sentiments in regard to the treaties of Washington, and that I will duly transmit them to my Government.

I avail, etc.

ELLIOTT NORTHCOTT.

COSTA RICA.

EARTHQUAKES IN COSTA RICA.

File No. 24353.

Chargé Monroe to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
San Jose, April 15, 1910.

Mr. Monroe reports that earthquakes have been continuous in San Jose for the past 60 hours. Says there are property losses, but no loss of life, and that there is excitement on all sides.

File No. 24354/2.

Chargé Monroe to the Secretary of State.

[Extract.]

No. 1483.]

AMERICAN LEGATION,
San Jose, April 16, 1910.

SIR: I have the honor to report that since midnight of April 12 a series of earthquake shocks have been felt here. One of them is said to have been the strongest felt since 1888. There has been damage to property, but no lives have been lost. The excitement was intense and continues; parks and open places are filled with tents where people sleep at night. Port Limon on the Atlantic and Puntarenas on the Pacific report no shocks.

I have, etc.,

G. L. MONROE, Jr.

File No. 24354/4.

Chargé Monroe to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
St. Jose, May 5, 1910.

Mr. Monroe reports destruction of Cartago by earthquake, during which it is estimated that 500 persons were killed or wounded. Says court of peace was destroyed. Reports that Americans are safe. Adds that San Jose was badly shaken, but says no lives were lost.

File No. 24354/4.

The Secretary of State to Chargé Monroe.

[Telegram]

DEPARTMENT OF STATE,
Washington, May 6, 1910.

Express to the Costa Rican Government and to the Central American court of justice the profound sympathy of the United States in the calamity at Cartago.

KNOX.

File No. 24354/4.

President Taft to the President of Costa Rica.

[Telegram.]

THE WHITE HOUSE,
Washington, May 6, 1910.

Accept the profound sympathy of the people and Government of the United States in the calamity at Cartago, of which I learn with the deepest regret.

WM. H. TAFT.

File No. 24595.

Chargé Monroe to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Jose, May 6, 1910.

The Government of Costa Rica requires assistance. Did not ask for it. Catastrophe in Cartago by far the worst that the country has had. Horrible calamity.

MONROE.

File No. 24595/A.

The Acting Secretary of State to Chargé Monroe.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 6, 1910.

Mr. Wilson directs Mr. Monroe to draw on department in sums of \$1,000 as needed up to a limit of \$5,000. Informs him that money has been contributed by the American Red Cross, and is to be carefully disbursed at his discretion for relief of Cartago earthquake sufferers, and if investigation is necessary to go himself or send consular officer.

File No. 24354/5.

The Costa Rican Minister to the Secretary of State.

COSTA RICAN LEGATION,
Washington, May 6, 1910.

YOUR EXCELLENCY: Official cablegrams received at this legation yesterday evening convey the very sad information that the city of Cartago was ruined by an earthquake Wednesday night, the 4-5 instant; that there were many victims there, but none in any other place; and that the new building for the Central American court of justice was entirely destroyed.

In consideration of the great and friendly interest shown by the illustrious Government of the United States of America in promoting peace and welfare among the Republics of Central America, which brought about the Central American Peace Conference of Washington three years ago, and having in mind that Mr. Andrew Carnegie, although as a private citizen but in consequence of the success of this

conference, made the donation of \$100,000 to erect said building, I beg leave to request of your excellency that the report of the destruction of the same be transmitted to him.

With many thanks in advance, I have, etc.,

J. B. CALVO.

File No. 24354/6.

The President of Costa Rica to President Taft.

[Telegram.—Translation.]

SAN JOSE, May 7-8, 1910.

In the name of the people and Government of Costa Rica I express to your excellency our most profound gratitude.

CLETO GONZALEZ VIQUEZ.

File No. 24354/10.

Chargé Monroe to the Secretary of State.

[Extract.]

No. 1485.]

AMERICAN LEGATION,
San Jose, May 9, 1910.

SIR: I have the honor to transmit the following report relative to the earthquake that devastated Cartago and some neighboring villages on the evening of May 4 last:

At 10 minutes before 7 o'clock a strong shock was felt in San Jose, but very little damage was done even to buildings that had suffered on April 13 last. I was giving a dinner that evening in honor of the President of the Republic, Señor don Cleto Gonzalez Viquez, and a quarter of an hour after the shock the president; the president-elect, Don Ricardo Jiménez; the minister for foreign affairs, Mr. Ricardo Fernandez-Guardia, and his wife, the Mexican chargé d'affairs; and Madame Najara y de Pindter and others arrived. I mention this to show how accustomed we had become to earthquakes since the one of April 13. The shocks, slight ones, continued throughout dinner, and it was not until the next morning that I knew that Cartago had been destroyed. Mr. Gonzalez Viquez and Mr. Jiménez, the President who was inaugurated Sunday, May 6, however, went to Cartago that same evening after leaving this legation.

Since then I have seen the ruined city. It was a town of about 6,000 inhabitants, and it is estimated that 500 people perished in the earthquake. Nearly 400 have already been buried.

Many people were still living in tents, because they dreaded a repetition of the shock of April 13, and this prevented a greater loss of life.

The wounded have been and are being brought to a large temporary hospital here. I have bought sheets, blankets, etc., for this hospital with the money so splendidly and so promptly sent by the American Red Cross. I am using the money where I think it will do the most good.

At present there is money enough; at least, Mr. John Keith, the head of the local association of charities, says there is. Mr. Minor Keith, of the United Fruit Co., sent 25,000 colones (about

\$11,000 gold), and the Mexican Government sent a like amount. Later on San Jose will probably suffer. The wounded from Cartago are dying daily, and the parks and open places of the city are filled with camps in which few sanitary precautions are taken.

There must still be people buried in the ruins of Cartago, and the work of getting them out seems to go very slowly. To-day the town has been put under martial law.

The Carnegie Court of Peace is in ruins, as may be seen from the inclosed photographs.

So far this legation has not suffered. A little plaster fell and a few glasses were broken; nothing more. I am unable to hear of any Americans who were killed or wounded.

I have, etc.,

G. L. MONROE, JR.

File No. 24354/5.

The Secretary of State to the Costa Rican Minister.

No. 96.]

DEPARTMENT OF STATE,
Washington, D. C., May 11, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, in which you state that official cablegrams received by the Costa Rican Legation on the 5th instant convey the very sad information that the city of Catago was ruined by an earthquake on the night of the 4th and 5th instant; that there were many victims there, but none in any other place; and that the new building for the Central American court of justice was entirely destroyed.

The Government and people of the United States sympathize deeply with the Government and people of Costa Rica in the sorrow which this calamity has occasioned.

In compliance with your request this department has sent a copy of your note to Mr. Andrew Carnegie for his information.

Accept, etc.,

P. C. KNOX.

File No. 24595/8.

Chargé Monroe to the Secretary of State.

No. 1487.]

AMERICAN LEGATION,
San Jose, May 12, 1910.

SIR: In regard to the department's cablegram of May 6 instant, authorizing me to draw on the Secretary of State in sums of \$1,000 as needed up to the limit of \$5,000 for the relief of the Cartago earthquake sufferers, I have the honor to report that the money has been gratefully received by the Government of Costa Rica, and that I am disbursing it as carefully and as intelligently as possible. I have been to Cartago only once since the earthquake, but the American consul here will prepare a report, in which he will inform me how he distributed blankets and materials for temporary shelter that I sent over there two days ago. I wrote on this subject as fully as is possible now in my 1485 of May 9 last.

Cartago is only 1 hour from San Jose by train, and there are several trains during the day. The wounded have been brought here and

are being cared for in a large and adequately conducted temporary hospital.

I have, etc.,

G. L. MONROE, JR.

File No. 24595/3.

Chargé Monroe to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,

San Jose, May 14, 1910.

Mr. Monroe says all wounded have been brought to San Jose and that he has disbursed part of Red Cross funds for blankets for them and to aid temporary hospital and that there is sufficient money for present use. States he is informed by Panama authorities of arrival of 250 tents and 500 blankets. Adds that the rainy season has begun, that zinc and lumber for temporary shelter is scarce, but that local permanent charitable organization has affairs well regulated.

File No. 24595/5.

The Acting Secretary of State to Chargé Monroe.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,

Washington, May 17, 1910.

Mr. Wilson informs the legation that the Red Cross proposes a further expenditure of \$2,500 for material for building shelters, to be shipped on May 24 from New Orleans. Instructs legation to telegraph suggestions as to material, quality, general dimensions, etc.

File No. 24595/6.

Chargé Monroe to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,

San Jose, May 18, 1910.

Mr. Monroe says Red Cross idea as to providing shelter is excellent, and that there is urgent necessity of houses 24 by 16 feet with siding of ordinary lumber, with light weight, corrugated iron roofs.

File No. 24595/11.

Chargé Monroe to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,

San Jose, May 24, 1910.

Mr. Monroe informs department that he has spent the Red Cross \$5,000 and says he could spend more very advantageously, as the poor need blankets, clothing, and shelter.

File No. 24595/9.

The Acting Secretary of State to Chargé Monroe.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 25, 1910.

Mr. Wilson informs the legation that the Red Cross shipped by steamer *Heredia* to Cartago May 24, via Port Limon, material for 35 houses, complete, dimensions as suggested by legation. Mr. Wilson adds that letters follow by mail.

File No. 24354/14.

*The Costa Rican Minister to the Secretary of State.*COSTA RICAN LEGATION,
Washington, May 25, 1910.

MR. SECRETARY: I have the honor to inform your excellency that the Government of Costa Rica duly appreciating the contents of your excellency's note of the 11th instant, addressed to this legation, and deeply impressed by the various proofs of consideration and good will further received from the legislative and executive powers; the American National Red Cross, and directly from the people of the United States of America, has instructed me to convey to all of them, through your excellency's worthy medium, the most sincere expression of profound gratitude for such noble acts in the hour of sorrow and grief which the calamity at Cartago has occasioned.

In complying with said instruction I have the honor to add that Costa Rica will never forget the kind regard with which the great Government of the United States has always honored her.

Be pleased, etc.,

J. B. CALVO.

File No. 24354/14.

*The Secretary of State to the Costa Rican Minister.*DEPARTMENT OF STATE,
Washington, June 8, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo, in which you express the profound gratitude of the Government of Costa Rica for the various proofs of consideration and good will given by the legislative and executive branches of the Government of the United States, the American National Red Cross, and the American people, in the hour of sorrow and grief which the calamity at Cartago has occasioned.

In compliance with your request the department will take pleasure in making known to the parties interested the contents of your note,

Accept, etc.,

P. C. KNOX.

CUBA.

JURISDICTION OVER AMERICAN CITIZENS IN THE ISLE OF PINES.

Minister Jackson to the Secretary of State.

No. 40.]

AMERICAN LEGATION,
Habana, April 13, 1910.

SIR: Without any intention to raise a mooted question I have the honor to request instructions for my guidance in regard to the American citizens residing in the Isle of Pines. I should like to know if the department considers that the position of Americans settled in that island differs from that of other Americans settled elsewhere in the Republic of Cuba, and if they are to be held as entitled to any special rights and privileges.

I have, etc.,

JOHN B. JACKSON.

The Acting Secretary of State to Minister Jackson.

No. 33.]

DEPARTMENT OF STATE,
Washington, May 3, 1910.

SIR: I acknowledge the receipt of your dispatch, No. 40, of the 13th ultimo, requesting instruction as to the status of Americans residing in the Isle of Pines, in which you inquire whether their position differs from that of other Americans in Cuba.

The treaty recognizing Cuban jurisdiction over the Isle of Pines is still pending before the Senate of the United States.

In the meantime American citizens have the same right of peaceful residence in the Isle of Pines as they have in Cuba, and are just as much bound to render obedience to the laws of Cuba while residing in the Isle of Pines as they would be if residing in Cuba itself.

In this connection it may be said that the Supreme Court of the United States has said that:

It may be conceded that the action of both the political departments has not been sufficiently definite to furnish a conclusive interpretation of the treaty of peace as an original question, and as yet no agreement has been reached under the Platt amendment. The Isle of Pines continues at least de facto under the jurisdiction of the Government of the Republic of Cuba, and that settles the question before us, because as the United States have never taken possession of the Isle of Pines as having been ceded by the treaty of peace, and as it has been and is being governed by the Republic of Cuba, it has remained "foreign country" within the meaning of the Dingley Act, according to the ruling in *De Lima v. Bidwell*, 182 U. S., 1, and cases cited; *United States v. Rice*, 4 Wheat., 246. There has been no change of nationality for revenue purposes, but, on the contrary, the Cuban Government has been recognized as rightfully exercising sovereignty over the Isle of Pines as a de facto government until otherwise provided. It must be treated as foreign, for this Government has never taken, nor aimed to take, that possession in fact and in law which is essential to render it domestic. (*Pearcy v. Stranahan*, 205 U. S., 257, 272.)

I am, sir, etc.,

HUNTINGTON WILSON.

ATTITUDE OF THE UNITED STATES CONCERNING POLITICAL
DISTURBANCES IN CUBA.

File No. 16169/24.

The Secretary of State to Minister Jackson.

No. 68.]

DEPARTMENT OF STATE,
Washington, June 21, 1910.

SIR: Reports having reached the department that there are circulating in Habana certain vague rumors regarding possible contemplated political disturbances, with the suggestion that such disturbances might not be viewed with disfavor by this Government, you will informally bring to the attention of the appropriate Cuban authorities the following statement:

It need scarcely be said that the Government of the United States has no disposition unnecessarily to take part in, or to express itself concerning, questions relating to the internal politics of Cuba, and that it would view with profound regret and disfavor any political agitation or activity involving violence and bloodshed by whomsoever undertaken, looking to the creation of any situation in Cuba which would again render necessary the occupation of that island by this Government in order to maintain a government adequate for the protection of life, property, and individual liberty and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States and now assumed and undertaken also by the Government of Cuba. You should upon all appropriate occasions let it be known that this is the real wish and feeling of the Government of the United States, which can not but consider that any person or party undertaking to bring about such an untoward condition of affairs is inimical not only to the Government of Cuba but likewise to the Government of the United States; and that the disposition of the United States would be to assist, in so far as treaty stipulations and the rules of international law require or permit, the constitutional Government of Cuba in those proper and constitutional measures which it might find necessary to undertake to maintain peace, law, and order in that Republic.

As having a possible general bearing upon this question as well as upon the question of the attitude of the American Government upon all matters relating to Cuba, the department repeats to you its instruction of April 5, 1910,¹ in which, commenting upon the allegation of certain Americans that their negotiations were hampered by the action of other private American citizens who professed to Cuban officials some sort of unofficial authority to speak the real views of this department, you were informed that this department could not believe there was any actual foundation for such apprehensions since it would be immediately perceived by the Cuban authorities that the Government of the United States could and would speak through its duly accredited representatives only, who alone are and could be authorized to represent and speak for it in any capacity whatsoever; and that the placing of dependence upon information received through other sources would surely lead to misunderstanding and difficulties. In order, however, that the matter may be entirely clear, the depart-

¹ Not printed.

ment again repeats that whatever the Government of the United States has to say upon any and all matters, it will say through its duly accredited representatives and that if any American should at any time, without the permission or authority of this Government, directly or indirectly commence or carry on any verbal or written correspondence or inquiries with the Government of Cuba or with any officer or agent thereof with an intent to influence measures or conduct of the Government of Cuba or of any officer or agent thereof in relation to any disputes or controversies with the United States upon and regarding any subject whatsoever, you will immediately call such citizen's attention to section 5335 of the Revised Statutes, and will state that the Government of the United States will, if such a person should persist in his course, invoke the provisions of such statute for the protection of this Government.

I am, etc.,

P. C. KNOX.

RAISING OF THE WRECK OF THE U. S. S. MAINE.

File No. 811.304M28/21.

The Secretary of State to Minister Jackson.

No. 50.]

DEPARTMENT OF STATE,
Washington, May 23, 1910.

SIR: I inclose herewith a copy of a letter from the Secretary of War, stating that the President has approved the act of Congress which provides for the raising of the wreck of the U. S. S. *Maine*, a copy of which I also inclose, and asking that the consent of the Cuban Government be obtained.

You are requested to familiarize yourself with the correspondence on the subject in the files of the legation, and to avail yourself of an early opportunity to address to the Cuban Government a note asking its consent to the raising of the wreck.

I am,

P. C. KNOX.

[Inclosure.]

The Secretary of War to the Secretary of State.

WAR DEPARTMENT,
Washington, May 10, 1910.

SIR: I am advised that the President has approved H. R. 23012, Sixty-first Congress, second session, a bill which provides for the raising of the U. S. battleship *Maine*, in Habana Harbor, and the interment of the bodies therein, subject to certain conditions, one of which provides "that the consent in proper form of the Republic of Cuba shall be first obtained."

In pursuance of the foregoing, I have the honor to request that proper presentation be made to the Republic of Cuba, with a view to obtaining the required consent.

The Secretary of War and the Chief of Engineers, United States Army, are charged with the duty of carrying out the provisions of the act.

A copy of the bill as reported to the Senate is inclosed herewith.

Very respectfully,

J. M. DICKINSON.

[Subinclosure.]

Raising of battleship Maine.

[Public, 169—61st Cong.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War and the Chief of Engineers are hereby authorized and directed to provide with all convenient speed for the raising or the removal of the wreck of the United States battleship *Maine* from the harbor of Habana, Cuba, and for the proper interment of the bodies therein in Arlington Cemetery; and the Secretary of War is authorized and directed to remove the mast of the wreck of said battleship *Maine* and place the same upon a proper foundation in Arlington National Cemetery at or near the spot where the bodies of those who died through such wreck are interred: *Provided, however,* That the consent in proper form of the Republic of Cuba shall be first obtained. The sum of one hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, on account of the work herein authorized.

Approved, May 9, 1910.

File No. 811.304M28/23.

Minister Jackson to the Secretary of State.

No. 127.]

AMERICAN LEGATION,
Habana, June 1, 1910.

SIR: I have the honor to report that on the receipt, on the 28th instant, of your instruction No. 50, of May 23, I addressed a note to the Cuban department of state, setting forth the action of Congress in regard to the wreck of the U. S. S. *Maine*, and requesting the consent of the Cuban Government to its raising.

To-day I am in receipt of a reply from the foreign office, dated May 31, in which Secretary Sanguily states that he is charged by the President of the Republic to inform me that the Cuban Government has no difficulty in complying with the request contained in my note; but, on the contrary, it will have the greatest pleasure in granting all possible facilities toward the execution of the purpose of the American Congress.

I have, etc.,

JOHN B. JACKSON.

File No. 811.304M28/30.

Minister Jackson to the Secretary of State.

[Extract.]

No. 330.]

AMERICAN LEGATION,
Habana, September 9, 1910.

SIR: Referring to previous correspondence in regard to raising the *Maine*, I have the honor to report that Col. William M. Black, Corps of Engineers, United States Army, arrived in Habana on the 7th instant and called at the legation the same morning, and that in the afternoon Col. Black and I called on Mr. Sanguily, the Cuban secretary of state, and at the Department of Public Works. This morning I presented the colonel to President Gomez at an audience granted for the purpose. Everywhere Col. Black was most cordially received,

and the assurance was repeated to him which had been given me last June (dispatch No. 127), that the Cuban Government was prepared to do everything possible to facilitate the work in contemplation. Col. Black will return to Washington in a few days and will report in person to the appropriate authorities in regard to details. Capt. H. B. Ferguson, Corps of Engineers, who arrived in Habana this morning and who was also presented to the President, and Assistant Engineer A. C. Harper expect to remain here for the present.

There is a general feeling of satisfaction that the work is actually about to begin.

I have, etc.,

JOHN B. JACKSON.

File No. 811.304M28/45.

The President of Cuba to President Taft.

[Translation.]

REPUBLIC OF CUBA, EXECUTIVE MANSION,
Habana, December 6, 1910.

MY DEAR MR. PRESIDENT: On the eve of the raising of the remains of the *Maine*, whose sad fate is so closely connected with the history of the independence of Cuba, I desire, voicing the general sentiment of the Cuban people, to ask the American people to let us have some part of the ship with which to erect a plain and shining monument that will forever recall the union of love between the great Republic of the United States and the Republic of Cuba.

Renewing to you, etc.,

JOSE M. GOMEZ.

File No. 811.304M28/45.

President Taft to the President of Cuba.

THE WHITE HOUSE,
Washington, December 23, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your kind letter of December 6, in which you suggest that it would meet the general sentiment of the Cuban people if some part of the United States war vessel *Maine*, which sunk in the harbor of Habana, be given to the Cuban Government for the purpose of enabling that Government to make it a part of a monument commemorative of the historic friendship and bond of affection between the two peoples.

I can say to you in this unofficial and personal way that if I have the authority to make the order, as I think I have, I shall be glad to do so as soon as occasion calls for action. I have notified the Secretary of War to bring the matter to the attention of the Army engineers in charge, and shall ask the Secretary of State, when the matter is ready for formal direction, to bring it to your attention through diplomatic channels.

With assurances, etc.,

W. H. TAFT.

DENMARK.

EXPATRIATION ACT CONSTRUED FOR PURPOSES OF IMMIGRATION ACT.

File No. 136.2/31.

The Secretary of State to the Danish Minister.

DEPARTMENT OF STATE,
Washington, December 30, 1910.

SIR: I have the honor to transmit herewith, in accordance with the desire of the Acting Secretary of Commerce and Labor, a copy of his letter of the 27th instant replying to your legation's note addressed to that department and inclosing, as requested therein, 10 copies of a recent opinion of the Attorney General in regard to the "expatriation act construed for purposes of immigration act."

Accept, etc.,

(For Mr. Knox.)
ALVEY A. ADEE.

[Inclosure.]

The Acting Secretary of Commerce and Labor to the Secretary of State.

DEPARTMENT OF COMMERCE AND LABOR,
Washington, December 27, 1910.

SIR: This department has been requested by the Danish Legation to furnish 10 copies of a recent opinion of the Attorney General, published in a Department of Commerce and Labor decision (No. 119). There are transmitted herewith the number of copies mentioned, with request that they be forwarded to the Danish Minister in regular manner. There is also inclosed a copy which may, if you desire, be retained in the files of your department.

In this connection attention is directed to the fact that a decision was handed down on November 29 by the district court of the United States for the District of Massachusetts, construing section 1994 of the Revised Statutes, and holding that an alien woman can not acquire citizenship by marriage to an American citizen until such woman has been admitted to and acquired a residence within the United States. The case is entitled "In re Avedis S. Kaprelian." The same question is now under consideration by the Circuit Court of Appeals, Second Circuit, in three cases recently argued: In re Thakla Nikola, William Williams, etc., appellant; William Williams, etc., appellant, v. United States ex rel Paris Hohannessian; and William Williams, etc., appellant, v. United States ex rel Berthe Gendering.

Respectfully,

BENJ. S. CABLE.

[Subinclosure.]

Department of Commerce and Labor—Decision No. 119.

DECEMBER 10, 1910.

To whom it may concern:

The following opinion expressed to this department by the Attorney General is published for the information and guidance of immigration officials and others concerned.

BENJ. S. CABLE, *Acting Secretary.*

EXPATRIATION ACT CONSTRUED FOR PURPOSES OF IMMIGRATION ACT.

DEPARTMENT OF JUSTICE,
Washington, December 1, 1910.

SIR: I beg to acknowledge the receipt of your letter of the 17th ultimo, requesting my opinion upon the question therein presented, as follows:

Jebran Gossin, a native of Syria, was naturalized in the United States in 1905. Thereafter, about 1907, he returned to his native country and was married to a Syrian woman. After remaining in that country for more than two years he came back to the United States, bringing his wife, Nazara Gossin, with him. Upon reaching the port of New York the 10th of this month, the man was admitted, but it was found that the woman had trachoma, and she is being detained pending a determination of her right to enter, which seems to hinge upon the question whether her husband is now a citizen of the United States. If he is, then, under section 4 of the Expatriation Act of March 2, 1907 (34 Stat., 1228), it would appear that his wife is a citizen, and, as such, is not subject to exclusion under the immigration laws. Looking merely at the letter of section 2 of the act referred to, it would seem that, being a naturalized citizen and having resided for more than two years in the country from which he came, there is raised the presumption that he has ceased to be an American citizen, which presumption has not been rebutted in accordance with the proviso contained in that section, and his wife, being an alien, is subject to exclusion.

However, in view of the title of the act, and the fact that the proviso requires that the presumption shall be overcome by presenting certain evidence to a "diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe," I am in doubt as to whether the statute applies to a person who is now in the United States or who may be seeking admission as a citizen after having resided for more than two years in the country from which he came.

I have the honor to request, therefore, that you favor me with an expression of your opinion as to the citizenship status of the above-named Nazara Gossin. Inasmuch as the person concerned is being detained in the meanwhile at Ellis Island, an opinion at an early date will be appreciated.

Section 1994 of the Revised Statutes provides:

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

Nothing to the contrary appearing, I assume that Nazara Gossin "might herself be lawfully naturalized," and hence is to be deemed a citizen upon her marriage to a citizen of the United States. (27 Op. A. G., 507, and cases cited.) Her present citizenship status depends, therefore, upon that of her husband; and, under the facts presented, he is now a citizen unless his citizenship has been forfeited under the act of March 2, 1907. (34 Stat., 1228.)

That act is entitled "An act in reference to the expatriation of citizens and their protection abroad." The second section of the act provides:

SEC. 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: *Provided, however*, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: *And provided also*, That no American citizen shall be allowed to expatriate himself when this country is at war.

Pursuant to the last paragraph of the section quoted, the Department of State has issued a circular to diplomatic and consular officers of the United States, dated April 19, 1907, reading as follows:

When a naturalized citizen of the United States has resided for two years in the country of his origin, or for five years in any other country, this fact creates a presumption that he has ceased to be an American citizen, but the presumption may be overcome by his presenting to a diplomatic or consular officer proof establishing the following facts:

(a) That his residence abroad is solely as a representative of American trade and commerce, and that he intends eventually to return to the United States permanently to reside; or
(b) That his residence abroad is in good faith for reasons of health or for education, and that he intends eventually to return to the United States to reside; or

(c) That some unforeseen and controlling exigency beyond his power to foresee has prevented his carrying out a bona fide intention to return to the United States within the time limited by law, and that it is his intention to return and reside in the United States immediately upon the removal of the preventing cause.

The evidence required to overcome the presumption must be of the specific facts and circumstances which bring the alleged citizen under one of the foregoing heads, and mere assertions, even under oath, that any of the enumerated reasons exist will not be accepted as sufficient.

I infer from your statement of the facts that, before leaving Syria, Jebran Gossin did not make proof before a consular or diplomatic officer of the United States as provided by the regulations of the State Department. The question, then, is whether the presumption as to noncitizenship raised by the act by reason of his residence abroad continues notwithstanding his return to the United States.

In my judgment the act was not intended to apply to a case of this kind, but its operation is limited to naturalized citizens while residing in foreign countries. The purpose of the act is, I think, simply to relieve the Government of the obligation to protect such citizens residing abroad after the limit of two or five years, as the case may be, when their residence there is not shown to be of such a character as to warrant the presumption that they intend to return and reside in the United States and thus bear the burdens as well as enjoy the rights and privileges incident to citizenship.

Until the time limit has expired, the presumption is that they intend to return; after that time it is presumed that they do not intend to return, and it becomes necessary, in order that they may continue to have this Government's protection, to show affirmatively, in accordance with the regulations of the State Department made in pursuance of the act, that it is their bona fide intention to return to the United States to live. Obviously, therefore, the essential thing under the act is the intention to return to and reside in the United States. The highest proof of such an intention is the actual return and residence of such a person, amounting as it does to a demonstration. It is not to be held, therefore, that the act would apply to a case of this kind unless the language used or the circumstances attending its passage compel such a conclusion. The title, language, and history of the act, however, support the views just stated as to its construction.

As above stated, the act is entitled "An act in reference to the expatriation of citizens and their protection abroad," and it appears that it was passed at the instance of the Department of State. In reporting the bill to the House, the Committee on Foreign Affairs said (H. Rept. No. 6431, 59th Cong., 2d sess.):

This bill follows in its general lines the recommendations of the Department of State.

* * * * *

Perhaps the most important provision of the bill is desired by the State Department to guard against complications in which this country has often been involved. All desire that the flag of this country should protect an American citizen to the fullest extent. But none of us desire that some foreigner who does not intend to cast his lot permanently with us should endeavor to avail himself of the flag as a fraudulent protection. Many foreigners come here, become naturalized, and then return to their own countries or migrate to other parts of the world without any intention of returning to this country. They have not become citizens in good faith, but they seek to avail themselves of the protection of our citizenship in avoiding responsibility to which they may be subjected in other parts of the world.

This is not right. The citizenship of the United States should not be sought or possessed for commercial or dishonest ends. To guard against this evil, this bill provides that a naturalized citizen who leaves this country and dwells elsewhere continuously for five years shall be presumed to have abandoned his citizenship. This presumption can be overcome, but such a provision as this would be of great assistance to the Department of State, would avoid possibilities of international complications, and will prevent those who are not entitled to its protection from dishonestly hiding under the American flag.

As further showing the purpose of the act, the remarks of Mr. Perkins, who reported the bill from the committee and had charge of it in the House, are pertinent. In the course of debate it was said (Congressional Record, vol. 41, pt. 2, p. 1466):

Mr. BENNET of New York. Mr. Speaker, I entirely agree with the gentleman from Colorado [Mr. Bonyng] as to section 3 [2]. I think it is too broad. In addition to the consideration that he urged upon the House, there is also the consideration of property rights and of property rights inhering in American born citizens who might take through these foreign-born naturalized citizens. This bill will apply to a man who has now been abroad four years and eleven months, and if he remain abroad the other month he would be forced, under this statute, to become no longer a citizen of the United States, but a citizen of the country where he was.

Mr. PERKINS. Allow me to correct the gentleman. That certainly is not the result of the statute at all.

Mr. BENNET of New York. Why not?

Mr. PERKINS. The statute provides that having remained there five years continuously, there shall be a presumption which, unless he satisfies the officers of the State Department, their consuls, or ministers to the contrary, would authorize the State Department to refuse to extend him protection. It can not affect any other rights, which, of course, he can present in court. No presumption is conclusive on a court. It is a mere presumption, but the presumption would protect the State Department. That is the object of the bill and the result of the bill and the only result of it.

The fact that the act only authorizes the submission of proof for the purpose of overcoming the presumption as to noncitizenship raised thereby to diplomatic and consular officers of the United States, who necessarily reside abroad, and makes no provision in respect to naturalized citizens coming within the purview of the act who return to the United States, is a further evidence that Congress did not intend the act to apply to a case of this kind. To hold that it did would produce the absurdity of a naturalized citizen seeking to reenter the United States being held to have ceased to be such, and possibly denied admission, because he had failed to make proof before the proper diplomatic or consular officer abroad of his intention to return to the United States.

As above shown, the presumption as to noncitizenship raised by the act is created for the purpose of relieving the State Department of protecting naturalized citizens abroad when the conditions are apparently such as to indicate that they have no bona fide intention to return to and reside in the United States. When a citizen returns to the United States the necessity for such protection no longer exists, and it is fair to assume that with the cessation of the necessity the presumption created by the act also ceases.

In my opinion, therefore, under the facts stated, Jebran Gossin has not lost his citizenship, and his wife, Nazara Gossin, upon the assumption above stated that she herself might be lawfully naturalized, is also to be deemed a citizen.

Respectfully,

The SECRETARY OF COMMERCE AND LABOR.

GEO. W. WICKERSHAM,
Attorney General.

COMMERCIAL CONVENTION BETWEEN DENMARK AND FRANCE.

File No. 23807.

Chargé Wallace to the Secretary of State.

No. 273.]

AMERICAN LEGATION,
Copenhagen, February 23, 1910.

SIR: I have the honor to inclose, as of interest to the department, two copies, with translation in duplicate, of a supplementary agreement, signed on February 9, 1910, by the Danish minister for foreign affairs and the French minister in Copenhagen, to the convention of commerce and navigation signed in Paris, February 9, 1842.

I beg to draw the department's attention to Article II of the convention, inasmuch as the Rigsdag has now under consideration a complete revision of the existing laws governing the rights of commercial travelers in Denmark.

I have, etc.,

WM. K. WALLACE.

[Inclosure—Translation.]

The undersigned, Erik Julius Christian de Scavenius, minister for foreign affairs of His Majesty the King of Denmark, and Charles Prosper Maurice Horric de Beaucaire, envoy extraordinary and minister plenipotentiary of the French Republic at Copenhagen, duly authorized for the purpose, have agreed upon the following supplementary articles to the convention of commerce and navigation signed in Paris the 9th of February, 1842.

ARTICLE I.

Danish subjects in France and French citizens in Denmark in the exercise of their civil rights as well as in the pursuit of their trades and industrial or commercial professions, shall enjoy the same rights, privileges, liberties, favors, immunities, and exemptions which have been or will be granted to their own nationals and shall not be subjected to other forms of taxation or impost than those which are or may be levied on their own nationals.

ARTICLE II.

The amount to be paid for letters patent in Denmark by the commercial travelers of firms established in France shall not exceed the amount paid by commercial travelers of nations most favored in this respect. The commercial travelers of firms established in Denmark shall be subject in France to an equivalent impost.

ARTICLE III.

The foregoing articles will have the same force and value as if they were an integral part of the above-mentioned convention of the 9th of February, 1842, they shall apply to the same geographical areas, and shall cease to be effective simultaneously with termination of the said convention, in case this should be renounced.

ARTICLE IV.

These articles, executed in duplicate, shall come into force one month after their signature.

ERIK SCAVENIUS.
HORRIC DE BEAUCAIRE.COPENHAGEN, *February 9, 1910.*

DOMINICAN REPUBLIC.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND THE DOMINICAN REPUBLIC.

Signed at Santo Domingo June 19, 1909.

Ratification advised by the Senate, with amendment, July 26, 1909.

Ratified by the President April 29, 1910.

Ratified by the Dominican Republic July 11, 1910.

Ratifications exchanged at Santo Domingo August 2, 1910.

Proclaimed August 26, 1910.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and the Dominican Republic providing for the mutual extradition of fugitives from justice was concluded and signed by their respective plenipotentiaries at Santo Domingo, on the nineteenth day of June, one thousand nine hundred and nine, the original of which convention, being in the English and Spanish languages is, as amended by the Senate of the United States, word for word as follows:

The United States of America and the Dominican Republic, having judged it expedient, with a view to the better administration of justice and to the prevention of crimes within their respective territories and jurisdictions, that persons convicted of or charged with the crimes hereinafter specified, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries:

The President of the United States of America, Fenton R. McCreery, minister resident and consul general of the United States of America, and the President of the Dominican Republic, Don Emilio Tejera Bonetti, acting secretary of state for foreign affairs of the Dominican Republic, who, after reciprocal communication of their full powers, found in good and due form, have agreed upon the following articles, to wit:

ARTICLE I.

It is agreed that the Government of the United States and the Government of the Dominican Republic shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in article two of this convention committed within the jurisdiction of one of the contracting parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE II.

Persons shall be delivered up, according to the provisions of this convention, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter, when voluntary, poisoning, or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Bigamy.

5. Arson.

6. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

7. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the laws of Nations;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ships upon the high seas with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein;

9. The act of breaking into and entering into the offices of the Government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance of forged papers.

12. The forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the uttering or fraudulent use of any of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles, or coupons of public debt, created by national, State, provincial, territorial, local or municipal Governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies, and marks of State or public administrations, and the utterance, circulation, or fraudulent use of the above mentioned objects.

14. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars.

15. Embezzlement by any person or persons hired, salaried, or employed, to the detriment of their employers or principals, when the crime or offence is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money of the value of twenty-five dollars or more.

18. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars.

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director, or officer of any company or corporation, or by anyone in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds \$200.

21. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

22. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both contracting parties.

ARTICLE III.

The provisions of this convention shall not import claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no persons surrendered by or to either of the contracting parties in virtue of this convention shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the sovereign or head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offense was of a political character, or was an act connected with crimes or offenses of a political character.

ARTICLE IV.

No persons shall be tried for any crime or offense other than that for which he was surrendered.

ARTICLE V.

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI.

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he

has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and, until he shall have been set at liberty in due course of law.

ARTICLE VII.

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to the State whose demand is first received.

ARTICLE VIII.

Under the stipulations of this convention, neither of the contracting parties shall be bound to deliver up its own citizens or subjects.

ARTICLE IX.

The expense of the arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X.

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the contracting parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid, shall be duly respected.

ARTICLE XI.

The stipulations of this convention shall be applicable to all territory wherever situated, belonging to either of the contracting parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties. In the event of the absence of such agents from the country or its seat of Government, or where extradition is sought from territory included in the preceding paragraph, other than the United States or the Dominican Republic, requisition may be made by superior consular officers.

It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to

the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII.

If, when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as provided in Article XI hereof, and been brought, before a judge or magistrate to the end that the evidence of his or her guilt may be heard and examined as herein before provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the Government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months, so that the demanding Government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if, at the expiration of said period of two months, such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

ARTICLE XIII.

In every case of a request made by either of the two contracting parties for the arrest, detention, or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIV.

This convention shall take effect from the day of the exchange of the ratifications thereof; but either contracting party may at any time terminate the same on giving to the other six months notice of its intention to do so.

The ratifications of the present treaty shall be exchanged at the city of Santo Domingo as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done, in duplicate, at the city of Santo Domingo, this nineteenth day of June, one thousand nine hundred and nine.

[SEAL.]

FENTON R. McCREERY.

[SEAL.]

E. TEJERA BONETTI.

And whereas the said convention, as amended by the Senate of the United States, has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the city of Santo Domingo, on the second day of August, one thousand nine hundred and ten;

Now, therefore, be it known that I, WILLIAM HOWARD TAFT, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof, as amended, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-sixth day of August, in the year of our Lord one thousand nine hundred and
[SEAL.] ten, and of the Independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

By the President:

ALVEY A. ADEE,

Acting Secretary of State.

ECUADOR.

MESSAGE OF PRESIDENT OF ECUADOR TO THE ECUADORIAN CONGRESS.

File 3010/91.

Minister Fox to the Secretary of State.

No. 669.]

AMERICAN LEGATION,
Quito, June 27, 1910.

SIR: I have the honor to inclose herewith copies, with translation, of the message of the President of Ecuador submitted to the extraordinary session of Congress, 1910. This document is important, being an analysis of the position of Ecuador in the present conflict with Peru.

I have, etc.,

WILLIAM C. FOX.

[Inclosure.—Translation.]

The message of the President of the Republic to the Extraordinary Congress of 1910.

HONORABLE LEGISLATORS: Permit me to welcome you and to assure you that your presence in this solemn moment will be fecund in benefits for the nation.

We find ourselves passing through a difficult situation, on account of the conflict which has arisen between our Republic and that of Peru.

As is well known, the secular dispute over the boundary line was submitted for decision to the King of Spain. We were expecting a just and proper sentence from the wisdom of such a distinguished judge, but when we were most confident, a plan of the decision, uselessly disastrous to Ecuador, came to surprise us in a most painful manner. And in order that we should not remain in doubt as to the injustice which threatened us, Señor P. Caballero, then Spanish minister of state, said to our representatives in Madrid that the natural boundaries for the Ecuadorian nation were in the eastern range of the Andes, and that we should content ourselves with being the South American Switzerland. Minister Rendon could not support such offensive remarks with patience; he observed to Señor Caballero that nature had not placed the dividing line between the two nations on the slopes of Cotopaxi, but on the banks of the Amazon.

Honorable legislators, the fault was not with the Spanish council of state, whose members raised their voices against the injustice of that which was going to make us its victims; but the word of those wise and just jurists would have been drowned, without doubt, by the dexterity of the Republic of Peru, if the royal arbitrator, proceeding with the highest views and impartiality, attributes of such an upright monarch, and listening to the just claims of our Ministers Vazquez and Rendon, had not have suspended pronouncing the decision, thus leaving the parties at liberty to arrive at a direct settlement.

The notice of the very grave peril in which the national integrity was found brought up the views of Ecuador; and, urged by a most sincere desire to avoid the disturbance of peace on our continent, and in accord with the opinion of a committee of distinguished citizens, proposals were made to the Peruvian Government that we settle our differences by means of direct arrangements, consulting the sentiment of Americanism and fraternity which should reign between two neighboring States united by so many indestructible bonds.

The representatives of Ecuador and Peru in Washington jointly asked the Government of the United States of America that it should find a prudent and adequate means of finding an end of all possibility of a rupture between the two nations. The illustrious Government of the great Republic also suggested a direct arrangement

by means of commissioners, who would hold conferences in the city of Washington or in some other American capital. Ecuador hastened to nominate its representatives, but Peru not only did not do that, but affirmed that she had not solicited the mediation of North America. Later she stated that she would accept no other solution than the arbitral decision of Spain; in this way making every decorous and fair solution to the question difficult.

You will take note that the Government of Peru, in the refusal of our fraternal invitation to settle the boundary dispute justly, has forgotten the obligations imposed by the treaty of arbitration, which provides for the direct settlement in preference to the arbitral judgment. The Peruvian foreign office, in sustaining that the best means of finding a solution for our controversy is arbitration, has contradicted the wise foresight of the most famous statesmen of Peru, who saw in the treaty of 1887 an unavoidable cause of war between the two nations rather than a means of putting an end to the disagreement. It is, indeed, enough to read the confidential memorandum which the minister for foreign affairs, Dr. Alberto Elmore, presented to the Congress of 1891 to know that the most eminent statesmen of that country saw in the treaty of arbitration only the seeds of grave disagreements for the future—a species of mine which must produce an explosion and cause the ruin of the two countries.

Dr. Elmore said that the boundary question was one of life or death for Ecuador, since a radical solution against her would reduce her to the condition of Uruguay—insignificant for the present and exposed to the danger of being absorbed later on by her powerful neighbors; and that leaving Quito a few leagues from the Peruvian possessions, even though this solution was the result of an arbitral decision—it was evident that the country would rise up against the decision and there would be no Ecuadorian Government which could or would comply with it. The only possible solution of the boundary question between Ecuador and Peru which is radical and permanent, also said Dr. Arturo Garcia in his memorandum of August 9, 1890, was, has been, and will be the direct settlement. Thus all those who have had knowledge of the affair have believed, and thus will anyone who meditates upon the nature of the question also believe. Besides a friendly settlement, there are but two ways of settling the dispute—war and arbitration. But arbitration is also war, although this appears to be a paradox. Arbitration in the absolute form, unlimited in that which is agreed upon, and being a strict right, only permits radical solutions in the great dispute which is in question.

If the arbitrator has only to abide by the proved right of the parties, the decision could take away from us two populated provinces with some thousands of Peruvians and a vast territory south of the Marañon; or it could take our frontier not only into the center of Ecuador, but also into the north, establishing our boundary at a distance of two days from the capital. Would there be enough moral strength in the losing party, in one case or the other, to comply with a decision which would wound the most sacred interests and sentiments of the nation? Would the inhabitants of Tumbes and Jaen tranquilly submit to becoming Ecuadorians after having formed part of Peru for 70 years? Would Ecuador resign itself to be hemmed in between the mountains and the sea, renouncing all her hopes for the future?

Even Señor Bonifaz, Dr. Alzamora, and Dr. Pardo, ex-President of Peru and enthusiastic defender of the extreme aspirations of his country, have expressed themselves in more or less the same manner, so that, in the opinion of the above-mentioned Peruvian statesmen, to submit a question of our boundaries to an arbitrator would be to commit a grave error, for the reason that the arbitral decision would have to decide the very life of the contending States and that neither of them could submit to an unfavorable decision.

This wise foresight has come to its culmination, honorable legislators; for simply the notice that the project of the decision was against Ecuador has exasperated the minds of the people to such an extent that only the calmness and prudence of the Government, up to the present time, has been able to avoid greater explosions of wounded patriotism. Nevertheless, as you all know, lamentable incidents have arisen, which the public authorities have energetically condemned, and have even ordered that those suffering in such manifestations be indemnified.

The Government of Ecuador, in view of such disagreeable occurrences, has complied, to the fullest extent, with its duty, and has strictly fulfilled all the requirements of international law.

The royal arbitrator, taking into consideration the difficult situation of the two countries, and in view of the same treaty of arbitration, has resolved to defer the decision, in order that the contending Governments should arrive at a peaceful and friendly settlement. We have accepted such a prudent and just resolution; and I believe that, the question being put in this form, the only means to establish an equitable understanding is the direct arrangement.

The Argentine Republic, the United States of Brazil, and the United States of North America have offered us their valuable mediation, being inspired by those sentiments of Americanism and concord which distinguish these great and illustrious nations. The Ecuadorian Government, which has had such an earnest desire to maintain peace, has accepted this very generous and laudable offer and has pointed out to the mediating powers that the most efficacious way of reestablishing harmony was a direct arrangement, with the assistance of Colombia, which, according to the treaties in force, forms a single part with Ecuador for the defense of the disputed territory. Never will it be possible to sufficiently praise and acknowledge the high-minded propositions of the three mediating States, and we are strong in the confidence that they will be able to conquer all resistance and harmonize the interests of the nations at variance.

The Republic of Chile, in spite of its desires in favor of peace, was not able to take part in this mediation, for the reason that her relations with Peru had been broken off; but she also deserves our everlasting gratitude on account of her interest in avoiding the war, and for her pledging us of frank sympathy which has protected us at each step.

The minister for foreign relations will place before you all diplomatic actions which have been taken to maintain peace and defend the sacred and unchangeable rights of the nation.

If the present situation has been difficult it has served to show the world the ardent and fiery patriotism of the Ecuadorians.

All political divisions have been forgotten, and the citizens have sincerely become known to each other in the face of danger to the country.

Ecuador, as you have always contemplated, has been transformed into a single camp; and all of our citizens are rivals in love for the country and in sacrifices for her as in the best times of the heroic Republics of antiquity.

Ecuador has quickly presented herself to the other nations as a race full of vigor and noble sacrifices, in that every sacrifice is small, when it is a question of defending the honor and integrity of the nation. Every citizen is a soldier; and the only aspiration of every soldier is to die in defense of the soil upon which he was born.

The justice of our cause, the careful moderation with which we have conducted ourselves in these difficult moments, and the high-minded and noble attitude of the Ecuadorian people have won for us the general sympathy of the American nations.

The people of Colombia have not forgotten our common origin and that we were rocked in the cradle by the glory of the great Republic of Bolivar; and these, our generous brothers, have hastened to offer us with insistence their aid and their blood to forever maintain on high the rainbow-colored banner.

Our gratitude will be everlasting for this heroic people, descendants of the giants, for this people who have desired to share with us the failures and the glories of war.

The army, honorable legislators, deserves every praise; instruction, patriotism, proven value, and discipline, all of these talents which are esteemed and which recommend themselves to the advanced class of officers, are found in the Ecuadorian army.

The cause of the country has defenders worthy of it; and in the unfortunate eventuality, should we see ourselves forced to have resource to arms, I am fully convinced that victory would crown our efforts.

The patriotic committees organized in the capital and in all the other cities of the Republic have been of very important service to the cause of the nation. That of Pichincha especially has been indefatigable in aiding the Government in the difficult work of solving the hardest international problems. I finish by recommending such distinguished and praiseworthy citizens to the gratitude of the nation.

It is unnecessary to say that the dangers which threaten the Republic have increased the economic difficulties of the treasury and notwithstanding we are counting upon a large military force sufficient to repel any unjust aggression; and if it comes to the breaking out of hostilities, the forces of the Republic can be quadrupled; such is the ardent enthusiasm of the Ecuadorians.

It is necessary to take notice that, notwithstanding the threatenings of war, the Ecuadorian credit stands firm; and you should study the proposals for the loan which the Government has received even in these moments of anxiety for foreign capital. The expediency of accepting the proposal, which you judge is the most advantageous, is not unknown to you. Since the nation should foresee the possibility of a breaking off of friendly relations and look ahead for the money necessary to meet the situation, I have confidence in your wisdom and patriotism; and I am certain of the adoption of the most efficacious and secure means in this direction.

The minister of the treasury will present you a project of transitory patriotic contributions, with the object of increasing the fiscal revenues while the present situation continues.

I recommend to you that you should study the above-mentioned projects and decide which is the most expedient for the Republic.

The other Ministers of State will submit to you certain other matters of vital importance which it is necessary to decide upon in a practical and efficacious manner and in the shortest possible time.

One single thought animates every Ecuadorian: The people have confidence in the public powers and the public powers rest completely in the people. All united, inspired by the purest patriotism, we will save the Republic or die with her.

NATIONAL PALACE, QUITO, June 1, 1910.

ELOY ALFARO.

File No. 822,032.

Minister Fox to the Secretary of State.

[Extract.]

No. 726.]

AMERICAN LEGATION,
Quito, August 20, 1910.

SIR: I have the honor to inclose herewith translations of the message of the President of Ecuador to the Congress of 1910.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure—Translation.]

Message of the President of the Republic to the National Congress of 1910.

[EXTRACT.]

HONORABLE LEGISLATORS: I have the satisfaction to congratulate you upon the opening of the congress, whose patriotic and effective work will solve, in the most advantageous manner, the difficult and trying problems, which now justly occupy the mind of the nation.

The hostile attitude of the Peruvian Republic, the concentration of her army in the frontier Department of Piura, the pertinacity with which she has refused all means of conciliation, show clearly her decided purpose to protect by force her unfaithful proceedings in Madrid. War was imminent, but the Governments of Washington, Rio de Janeiro, and Buenos Aires offered in a spontaneous manner their highly esteemed mediation, which has come to upset the warlike and vicious plans of our gratuitous enemies.

The mediating powers have obtained the retirement of the troops encamped on the frontier, thus avoiding an imminent outbreak of hostilities; but it is regrettable to announce to you that, as regards the principal question, the very cause of the disagreement, the way to arrange the boundary question, the mediating Governments have not been able as yet to arrive at any practical and definite conclusion; for Peru persists in refusing to comply with article 6 of the arbitration treaty of 1887. Ecuador accepted the mediation upon that basis; and it is not possible for her to separate, in any manner, from the conditions stated in the note of May 24 last, without causing damages which may be irreparable for the nation.

The obstinate work of Peru in endeavoring to have a decision pronounced, which was before known and which would reduce Ecuador to the smallest geographical expression, can not be pardoned in any way. Since such an impetuous pretension is at variance with justice and law and with the sentiments of Americanism developed and praised by the people of our continent, and even with the special considerations which our neighbors on the south should show, corresponding to our noble actions.

During the war of the Pacific, Ecuador could have recovered all the Amazon region without any effort; and she received repeated suggestions that such an easy opportunity should be taken advantage of. President Veintemilla, interpreting the generosity of the country, answered that it would be very dishonorable to increase the difficulties which were weighing down Peru by using force to retake the oriental territory. Ecuador in this and in other occasions has clearly shown her extreme sentiments of fraternity for Peru and always harbored confidence in that that Re-

public would have esteemed our friendly manifestations, and, above all, the justice of our cause, aided by the treaty of 1829, by the Mosquera-Pedemonte protocol, and by the diplomatic documents of different kinds, in which our rights were recognized. But, regrettable to state, the people of Ecuador are finally convinced that the Peruvian Government depends for all her future prosperity in the most complete despoliation of Ecuador. That it judges this to be impossible to obtain if she deviates in the slightest from the Spanish arbitration.

Since the time of my first administration there have been rumors which were not favorable to us as regards the decision which Spain was going to pronounce; these were to such an extent that a notable Central American diplomat who came from Madrid was not afraid to state that the decision would be entirely adverse to Ecuador. I received this information in 1900 from Gen. Leonidas Plaza, who came from Costa Rica; and I used it within my power to free the country from such a peril.

In the last days of July, 1901, Mr. Agustin Arroyo, envoy extraordinary and minister plenipotentiary of the Argentine Republic, arrived in Quito and confidentially told me that the principal object of his mission was to obtain that my Government should take steps conducive to the carrying out of the arbitral judgment which should solve our boundary question with Peru. I repeated to him the information I had received in this respect and stated to him that such was the justice of our cause and the confidence which Ecuador had in the honesty of the Argentine president, that I would not hesitate to name him arbitrator. Mr. Arroyo listened to me with surprise, for at this time the relations between Chile and Argentine were so strained that war was feared for the near future and Peru was secretly counted upon as an ally of the latter nation. It appeared to be certain, for this reason, that Peru would have the fullest confidence in the Argentine Government, at that time her protector on this continent. Nevertheless she evaded with cleverness the proposition which was made in the premises. Mr. Arroyo did not have authority to accept my suggestions and cabled his Government and the Peruvian foreign office. The minister for foreign affairs of Argentine also telegraphed to the foreign minister of Peru, asking for his acceptance according to what Mr. Arroyo had communicated to him. But the Peruvian Government, as far as I know, made no response either by cable or mail up to the end of my administration, in August, 1901. On account of such an unusual proceeding, Señor Arroyo was convinced that justice was due to Ecuador in its fullest extent.

Peru has not desired, then, to seek the solution of her differences with Ecuador in any other manner than the arbitration of Spain; and her manifest blind confidence that the decision will be favorable to her has come to support and increase the just fears of the Ecuadorian people. Notwithstanding all this the cleverness of Peruvian diplomacy was able to make the Government of Gen. Plaza accede to their wishes and the treaty of 1887 was put into execution, a treaty which the most eminent statesmen of both countries had refused, considering it a certain source of future discord.

When I came back to power in 1906 the uneasiness of Ecuador was general and was becoming more justified day by day on account of the reports which came from Spain. Then I considered it my duty to act directly in this vital and difficult situation. Being desirous to maintain peace with the neighboring Republic, I employed all possible means to get Peru to agree to a fitting and just arrangement. The sterility of my labor has convinced me that Peru will not back out of her pretensions of despoiling us of territories which have never been in dispute and which we never imagined we were going to lose by an unjust decision. Referring to the project of the award, now known to all the world, and in which the overstepping of authority by the arbitrator is clear and the ignorance of our irrefutable rights is so manifest, that the opposition of the Ecuadorians to the above-mentioned arbitration is justified in the eyes of the world.

It is my duty to justly declare that the honesty of character of His Majesty King Alfonso has avoided the despoliation of Ecuador, since the above-mentioned sovereign, listening to the claims of our ministers, has suspended the pronouncement of the award, in order that the high parties in dispute shall look for the most satisfactory solution in conformity with their respective interests. But there can be no doubt as to the erroneous and adverse manner of thinking of the counselors of the king, who have passed over all rules of justice, over all our titles and rights, and have even included in the arbitral award territories which have never been the object of dispute, and who have gone so far as to reduce us to the highlands of the Andes in such a manner that there was reason to compare us to Switzerland. It is certain that the wisdom and honesty represented by Messrs. Canalejas, Sanchez, Roman, and Maura have come out of the proverbial honesty of Spain; but such illustrious defenders of justice, unfortunately, were in the minority; nevertheless their wise and convincing words

have been heard and echoed through all the nations of America and even in the Spanish Peninsula.

These antecedents being known, the project of the award being published, the tenacious resistance of Peru against a direct and conciliatory arrangement being seen, it would be too unjust to censure the decided attitude and the efforts used by the Government to get back the best territory which has been usurped from us; efforts and attitude which have been so much censured in Peru and which her illustrious president has lamented in his last message to the national congress. There is no reason to complain of the means which we take to protect our most cherished interests, since the conduct of the Peruvian Government is very far from the spirit of fraternity which should reign between two neighboring nations, bound by ties which should be unbreakable. The Government of Peru, not content with sustaining at any risk her unjustifiable pretensions upon our territory, has used all efforts to turn and denaturalize the most noble sentiments of the Peruvian people, instilling into them an implacable and deep hate against Ecuador and making them desire war as a necessary means of preserving the national honor. Peru is anxious for the armed strife and places all sorts of obstacles in the way of the reestablishment of South American harmony; Peru believes in her military superiority and is continually threatening to attack us, feeling that she is secure; Peru does not rest in making her propaganda against us, heaping discredit and distrust upon Ecuador by forbidden means. Peru is stirring up sentiment against us in all parts and is now trying the patience of our people.

Nevertheless I desire that that Government should recognize the depth of the abyss into which it is dragging two peoples of the same origin and equal aspirations; and in order that finally it may conform itself to repairing the immense injury it has done us and render homage to the laws of reason and justice, even though it may not do this except for its own expediency. But if such a blindness finally produces its dire results, if war should break out in spite of our efforts to avoid it, I have full confidence that the Ecuadorian army, the incarnation of outraged right and justice, will conquer all resistance and will obtain by force of arms that which is refused us by the most pacific and conciliatory means.

It is not necessary to speak to you of the noble patriotism of the Ecuadorian people, who are ready at any moment to take up arms and march in the defense of the national honor; ardent and true patriotism is the sure pledge of victory; but I shall speak to you of the sympathies upon which our cause is counting among other nations; in such a manner that if occasion arises Ecuador will have many generous allies in the work of recovery, which ridiculed justice and good faith demand from us.

The minister for foreign affairs will inform you of all the details of the international situation; also as to the approval of the Peralta-Uribe treaty of alliance unanimously accepted by the Colombian assembly; also accepted by you in the last extraordinary congress.

In the message which I presented to the national congress in its ordinary session of 1898 I said the following: "The veneration which I have for the heroes of our independence, who gave us a country, the most powerful in Central and South America, impels me to fix my attention upon our actual debility and smallness, and I say to you that, in my judgment, it would be expedient to form a grand brotherhood in order to assure ourselves a tranquil future."

At the present time it is impossible to consider the reconstruction of the ancient and glorious Colombia of Bolivar, but it will be easy to form a confederation which will present united before the world the peoples who won their independence in the battles of Carabobo, Boyaca, and Pichincha. This union effected, these nations would continue to control their destinies in their internal affairs as they best see fit, just as they have been doing up to the present time; but concerning foreign relations they would form a single political unity, composed of Venezuela, Colombia, and Ecuador, in confederation, with a total of 8,000,000 inhabitants, scattered from the shores of the Orinoco and the Amazon basin to the Gulf of Guayas—that is to say, in all of the richest territory in the continent of Colon.

A diet, composed of plenipotentiaries from the three Republics, will be called to organize this great national unity, which would make us strong and respected before the other powers and will permit us to take a great position as a nation in the life of the future. Moreover, we would then have the advantage that our boundary questions, so dangerous and so important to-day, which are insignificant when arranged by a practical fraternity, would be settled by amphictyonic commissions, in the same manner as family quarrels. The union and cordiality of the peoples who formed the grand Colombia of the liberators have been shown before the world in such an eloquent and striking manner in the great patriotic festivals that the most opportune moment appears to have arrived for the realization of the vast and useful idea of the

Colombian confederation. This is the thought which to-day burns in the minds of all the Ecuadorian statesmen and of those of our two sisters on the north; it is the fervent aspiration of all the peoples who have inherited the glorious rainbow flag; it is the key to prosperity and the future growth of the three divisions of the Republic of Bolivar. I recommend to you to closely study this great problem, and if you think as I do you will agree to authorize me to negotiate the respective preliminaries with the Governments of Caracas and Bogota.

The great Republic of Chile, after the retirement of Minister Pinto Agüero, who has left such pleasant remembrances with us, has accredited as envoy extraordinary and minister plenipotentiary the distinguished and well-known diplomat, Mr. Victor Eastman; and I take pleasure in informing you that the actions of the new representative of that friendly country have been in entire conformity with the sentiments of fraternity and harmony which unite the two countries.

The Government of Chile, in our actual conflict with Peru, has worked with interest in order that we should arrive at a pacific and satisfactory solution.

A few days ago I had the satisfaction to solemnly receive his excellency Mr. Alfredo Barros Moreira, minister resident of the United States of Brazil, accredited to my Government; and his presence among us is an eloquent proof of the sincere and reciprocal sympathy which exists between Ecuador and the noble Brazilian people.

The distinguished diplomatic corps which honors us with its residence in the capital is composed of prominent persons who have received, on account of their great merit, the general appreciation and special distinctions on the part of the Government.

I will end this part of my message by recommending to you, as a proof of friendship and deference to Brazil, that you approve in first sessions the Arévalo-Rio Branco Treaty of Commerce and Fluvial Navigation, which was submitted to you at the proper time.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND ECUADOR.

Signed at Washington, January 7, 1909.

Ratification advised by the Senate, January 13, 1909.

Ratified by the President, March 1, 1909.

Ratified by Ecuador, November 5, 1909.

Ratifications exchanged at Washington, June 22, 1910.

Proclaimed June 23, 1910.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an arbitration convention between the United States of America and the Republic of Ecuador was concluded and signed by their respective plenipotentiaries at Washington, on the seventh day of January, one thousand nine hundred and nine, the original of which convention, being in the English and Spanish languages, is word for word as follows:

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Ecuador, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907, taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment, have authorized the undersigned to conclude the following convention:

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the permanent court of arbitration established at The Hague by the convention of the 29th July, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the 18th October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern the interests of third parties.

ARTICLE II.

In each individual case the high contracting parties, before appealing to the permanent court of arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Ecuador shall be subject to the procedure required by the constitution and laws thereof.

ARTICLE III.

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Ecuador in accordance with the constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate, in the English and Spanish languages, at Washington, this seventh day of January, in the year one thousand nine hundred and nine.

ELIHU ROOT. [SEAL.]
L. F. CARBO. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington, on the twenty-second day of June, one thousand nine hundred and ten.

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-third day of June in the year of our Lord one thousand nine hundred and ten [SEAL.] and of the independence of the United States of America the one hundred and thirty-fourth.

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU—MEDIATION
OF THE UNITED STATES, ARGENTINA, AND BRAZIL.

Chargé Cresson to the Secretary of State.

[Extract.]

No. 324.]

AMERICAN LEGATION,
Lima, February 22, 1910.

SIR: I have the honor to report, continuing the observations made in my dispatch No. 322¹ that while public opinion here remains generally undisturbed as regards the outcome of the Spanish arbitration of the frontier questions pending between Peru and Ecuador, at the same time active preparations by the Peruvian Government are becoming daily more evident with a view to meeting any possible hostile move on the part of the other Government interested.

I attribute the markedly calm and judicious attitude of the the Peruvian press, and indeed the tone of the public in general, to the growing conviction that the rumored line of the Spanish award, as reported from Madrid, and published in the newspapers of both countries, is very nearly—if not exactly—the delineation already chosen by the King of Spain. Such a decision would be eminently favorable to Peruvian pretensions, and a distinct gain of territory as compared with the provisions of the Garcia-Herrera treaty.

I also annex¹ with the above a curiously exaggerated version of the same conditions published in Ecuador and reproduced here as tending to show the manner in which public opinion in Ecuador is being aroused against such a verdict as the one expected.

I would remind the department that the line of the Garcia-Herrera treaty, adopted under especially favorable conditions in 1890 (under the terms of the Bonifaz-Espinoza Convention of 1887), is a line of demarcation which was intended as a compromise between the pretensions of the two countries. This treaty was ratified in 1891 by the Ecuadorian Congress, but the Peruvian Congress, following the report of a diplomatic commission, introduced several important modifications. The executive branch of the Government, declaring this act to be unconstitutional, the matter remained in abeyance till 1893 when the decision of the legislative branch to maintain its pretensions very nearly brought about a conflict with the Ecuadorian Government.

¹Not printed.

It will be remembered that the Peruvian minister for foreign affairs during his term of office called the attention of the Peruvian Congress to the fact that on the 14th of August, 1905, a secret treaty was signed between Colombia and Ecuador, mutually guaranteeing the integrity of the territory of both countries. It would seem evident in case of a serious difference with a third party over territory so intimately affecting both Republics, that such a treaty might be called upon to play a considerable rôle.

In spite of the somewhat apathetic state of public opinion noted above, in view of the warlike preparations daily reported from Ecuador, the Peruvian Government is unquestionably making extraordinary preparations to meet any emergency.

I have, etc.,

WM. PENN CRESSON,

Chargé Pierrepont to the Secretary of State.

No. 68.]

AMERICAN LEGATION,
Santiago, March 8, 1910.

SIR: Referring to my cable of March 6, 12 noon,¹ in which I spoke of the order expelling the Peruvian curates from Tacna within 48 hours, I have the honor to inclose several newspaper clippings, with translations, from *El Mercurio*, the Government organ, explaining the action, and from the *La Union*, the Church paper, in which the action of the Government is attacked. Several other clippings on the same subject are included among the general clippings for which there is no covering dispatch.

The affair is arousing so much discussion that it seems proper for me to bring it to your attention in a dispatch, though the newspapers give a clear account.

According to the laws of Chile all priests throughout the Republic, upon being named to exercise their functions in a parish, must obtain the constitutional "pase" or permit from the President of the Republic, before proceeding to carry on their ministry. Some months ago the Chilean authorities, outraged because the Peruvian bishop of Arequipa, who still governs the Church in Tacna, would not recognize Chilean priests there, in spite of the fact that priests of other nationalities, in addition to the Peruvian, were recognized, asked the Peruvian priests if they had ever sought the permit required by Chilean law. Upon receiving a negative reply the Chilean Government closed the parochial churches in Tacna, and forbade the said curates to continue in the exercise of their functions without the necessary constitutional "pase." Nothing daunted, the Peruvian curates proceeded to minister the sacraments in private dwellings and other places, still unauthorized by the President and in direct opposition to the prohibition of the Chilean authorities; and still the Bishop of Arequipa refused to recognize the Chilean priests. Thus the order of March 3, issued by the intendente of Tacna, expelling the said curates within 48 hours was provoked.

The minister of foreign affairs says that in thus exercising their functions contrary to the law the priests, according to articles 213

¹Not printed.

and 214 of the *Codigo de Procedimiento Civil*, rendered themselves liable to imprisonment. "Not wishing to treat them too harshly," to quote his own words, "we are sending them back to their own country—certainly not a hardship—instead of putting them in prison."

The day following the order the internuncio protested to the minister of foreign affairs. The outcome of their interview was an order extending the period 48 hours, in which time the internuncio was to try to persuade the bishop of Arequipa to recognize the Chilean priests.

The view of the minister of foreign affairs is that as the treaty of Ancon put Tacna and Arica under the Chilean law and the constitution of Chile, it is the first duty of the Government to see that the constitution be not violated. He says also that Chile does not object so much to the Peruvian curates, but that she will not stand having them receive privileges in territory under Chilean control which are denied to the Chileans themselves. He added that if the bishop should recognize the Chilean priests the Government would probably not insist on the expulsion of the Peruvians, but that if the internuncio should fail in this mission he also might have to leave. This last, of course, was in confidence, but it shows the extent to which his wrath has been aroused.

The extended period of time came to an end yesterday. As I am closing this dispatch I learn that the internuncio has failed; that the bishop of Arequipa still refuses to license Chilean priests in Tacna; and that, if the Chilean local authorities in that Province obeyed their orders, the Peruvian priests should have departed yesterday. As yet we have not heard of their actual departure, but judging from the firmness of the Government in this matter there is no doubt but that the order was strictly enforced.

You will of course hear from Peru how the affair is regarded there. Even here there is considerable comment, and I fear this aggressive policy on the part of Chile will not help to bring about a settlement of the long standing irritating question of Tacna and Arica.

I have, etc.,

SETH L. PIERREPONT.

The Secretary of State to Chargé Cresson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 24, 1910.

The following is being sent for action by the diplomatic representatives of the United States, at Lima, Quito, Santiago, Petropolis, and Buenos Aires. Hand the following textually to the minister for foreign affairs of the Government to which you are accredited:

The Representatives at Washington of Peru and Ecuador having requested on behalf of their Governments that the United States consider whether it could not take some action toward an amicable settlement of the existing strain between them on account of the apprehension regarding the award of the King of Spain on the boundary dispute, and the Government of Ecuador, having made such representations also, through the legation of the United States at Quito, the Secretary of State makes in reply the following statement:

The present apprehensions appear based upon unauthenticated theories as to what the award may be. The United States sees in the situation no elements of danger which should not at once disappear if the two Governments immediately concerned, heeding the wise counsels of their friends and the dictates of their real interests, approached the subject in a calm and conciliatory spirit.

It might suggest itself to the two Governments that, upon mutual assurances of a sincere adherence to this attitude, they should instruct their respective representatives at Washington, or at some equally disinterested American capital, to discuss the question under the auspices of the Government at such capital, and, if able to find a common ground for diplomatic adjustment of the question, that they should request such third Government to inform the King of Spain that happily they had reached a situation where they would like once more to attempt a direct settlement by amicable negotiation and to request His Majesty, therefore, to withhold the award pending the result of these negotiations.

KNOX.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, March 31, 1910.

Department's March 24. In extended conference with the President of Ecuador this morning he expressed himself as very much pleased with the proposition of United States, which he accepted, saying that it was salvation of peace. A meeting of the cabinet this afternoon will make formal declaration, when I will be able to convey information officially to the department. In the meantime Ecuador has made direct proposition to Peru to accept Menendez Pidal line as compromise. Prompt answer from Peru expected. The President of Ecuador does not think, however, that it will be favorable.

Fox.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, April 1, 1910.

Following is translation of the note received from minister for foreign affairs, April 1:¹

Fox.

Minister Fox to the Secretary of State.

No. 605.]

AMERICAN LEGATION,
Quito, April 2, 1910.

SIR: I have the honor, in further reference to department's cable-graphic instructions of March 24 and my reply thereto of April 1, to inclose herewith copies of notes exchanged between this legation and the minister for foreign relations upon the subject of the adjustment of the boundary line between the Republics of Ecuador and Peru.

I have, etc.,

WILLIAMS C. FOX.

¹See following dispatch.

[Inclosure.

Minister Fox to the Minister for Foreign Affairs.

No. 182.]

AMERICAN LEGATION,
Quito, March 30, 1910.

MR. MINISTER: I have the honor to inform your excellency that I am in receipt of instructions from my Government at Washington to state that the representatives at Washington of Peru and Ecuador having requested on behalf of their Governments that the United States consider whether it could not take some action toward an amicable settlement of the existing strain on account of the apprehension regarding the award of the King of Spain on the boundary dispute, and the Government of Ecuador having made such representations also through the legation of the United States at Quito, the Secretary of State makes in reply the following statement:

The present apprehensions appear based upon unauthenticated theories as to what the award may be. The United States sees in the situation no elements of danger which should not at once disappear if the two Governments immediately concerned, heeding the wise counsels of their friends and the dictates of their real interests, approached the subject in a calm and conciliatory spirit.

It might suggest itself to the two Governments that upon mutual assurance of a sincere adherence to this attitude they should instruct their representatives at Washington, or at some equally disinterested American capital, to discuss the question under the auspices of the Government at such capital, and if able to find a common ground for diplomatic adjustment of their question, that they should request such third Government to inform the King of Spain that happily they had reached a situation where they would like once more to attempt a direct settlement by amicable negotiation and to request His Majesty therefore to withhold the award pending the result of these negotiations.

I seize this opportunity, etc.,

WILLIAMS C. FOX.

[Inclosure—Translation.]

Minister for Foreign Affairs to Minister Fox.

No. 13.]

FOREIGN OFFICE,
Quito, April 1, 1910.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's very honored note, No. 182, dated March 30, 1910, in which you are pleased to inform me that your excellency's Government, at the suggestion of the plenipotentiaries of Peru and Ecuador, has manifested the expediency of both Governments arranging directly the boundary question, which has been submitted for decision to His Majesty King Alfonso, by means of the representatives which may be accredited to the capital of your illustrious Government or of another friendly nation, a fact which will be communicated by the mediatory nation to the royal arbitrator, in order that the issuance of the award be suspended until the two States may reach a definite solution.

The suggestion of your Government having been brought to the knowledge of the chief of state, he authorizes me to say to your excellency that he accepts it, recognizing that by such a proceeding a proof of lofty Americanism has been given.

In expressing to your excellency in the name of the Government of Ecuador its gratitude for such laudable effort, I assure you that as soon as the opportunity offers this ministry will designate representatives who may meet with those of Peru in order to put a just and honorable end to the controversy over the boundary line between the two nations.

Accept, etc.,

F. X. AGUIRRE JADO.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, April 3, 1910.

Referring to my April 1, the following have been appointed as special delegates by the Government of Ecuador to treat with those appointed by Peru in direct settlement of the boundary question: Luis Felipe Carbo, Felicísimo Lope, and Clemente Ponce.

FOX.

Chargé Pierrepont to the Secretary of State.

No. 73.]

AMERICAN LEGATION,
Santiago, April 4, 1910.

SIR: Referring to the department's cable of March 25, forwarded to this legation by the embassy in Petropolis, regarding the statement of the Secretary of State resulting from representations made by the representatives in Washington of Peru and Ecuador, I have the honor to inclose herewith a copy and translation of the reply of the minister of foreign affairs of Chile to my note of March 28, written in accordance with the department's instructions.

The minister of foreign affairs remarked to me in a friendly conversation yesterday that he had been pleased to hear from Quito that the Secretary of State's suggestion would be adopted and the question of limits referred for adjustment to the United States, the King of Spain having gladly consented to withhold his award.

I have, etc.,

SETH L. PIERREPONT.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Chargé Pierrepont.

No. 734.]

FOREIGN OFFICE,
Santiago, April 2, 1910.

MR. CHARGÉ D'AFFAIRES: This department is in receipt of your attentive note, No. 60, dated March 28 last. In it, according to instructions from your Government, you have been good enough to inform the department that the diplomatic representatives of Peru and Ecuador in Washington, in the name of their respective Governments have consulted the opinion of your Government concerning the possibility of arranging through it a direct settlement of the difficulties pending between them on account of the boundary dispute which they have submitted to the decision of the King of Spain.

You conclude your note by inserting the answer of the Secretary of State of the United States, who entertains the idea insinuated by the interested Governments and states the manner in which, in his judgment, it might be carried out.

On thanking you for the information contained in the note which I have the honor to answer, I must assure you of the great pleasure with which the Government of Chile learns of the deep interest with which the Government of the United States is inspired by the possibility of finding a direct, friendly, and satisfactory settlement of the difficulties in which the Governments of Ecuador and Peru are involved on account of the boundary arbitration.

The department is fully informed of the formula suggested by your Government to bring about that agreement, and can not do less than to second the idea of soliciting the royal arbitrator to withhold the award while the negotiations which must lead to it are being developed.

I take this opportunity, etc.,

AGUSTIN EDWARDS.

Chargé Cresson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, April 5, 1910.

Minister for foreign affairs of Peru has shown me recent cable from Peruvian consul Guayaquil, reporting Peruvian citizens further assaulted, and Peruvian consul Guayaquil to take refuge consul of the United States. Also, reports Peruvian Legation Quito assaulted, and minister for foreign affairs of Peru informed me he has cabled

Peruvian minister at Quito he will be permitted to withdraw if there is danger of further outrage. Here large street demonstrations continue. Reserves ordered north. Situation is critical.

CRESSON.

The Ecuadorian Minister to the Secretary of State.

LEGATION OF ECUADOR,
Washington, April 6, 1910.

MR. SECRETARY: Pursuant to our pleasurable conference of day before yesterday I have the honor to repeat in this note that the Government of Ecuador, desirous of preserving international peace and maintaining the most cordial relations with all the American Republics, has accepted with pleasure the suggestion of the Government of the United States looking to a direct settlement at Washington of its boundary dispute with Peru.

With this noble purpose in view the Government of Ecuador has appointed as commissioners vested with full powers Drs. Don Felicisimo Lopez, Don N. Clemente Ponce, and the undersigned, whose mission will be to endeavor to arrange with the commissioners Peru may choose to elect the best means of bringing to an end their long-standing controversy by signing directly a treaty reconciling the interests of both parties so as to give the continent the best proof of American fraternity.

I have received from my Government instructions to say to your excellency's Government how much it welcomes and appreciates the elevated motive of the suggestion made to both countries for the good of their common interests.

Convinced, as my country is, of the impartiality of the Government of the United States in South American affairs, it cherishes the well-grounded hope that the United States Government will adhere to its conciliatory course which can not but redound to the advance of peace, civilization and progress in all the Republics of this Hemisphere.

I renew, etc.,

L. P. CARBO.

Chargé Pierrepont to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Santiago, April 7, 1910.

Minister for foreign affairs this afternoon showed me telegrams sent to Quito, Washington, Rio de Janeiro, and Buenos Aires, in which he declared that Chile considers peace necessary and that Peru and Ecuador should take the opportunity provided by the Secretary of State for amicable settlement. Telegram from Quito reports quiet and that Government of Ecuador wants to follow advice of Chile. Assault on Peruvian Legation is said to have been fomented by the opposition.

PIERREPONT.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, April 11, 1910.

The situation this morning very alarming, owing to cables from Ecuadorian minister at Lima stating that there was great enthusiasm for war; army being organized and troops are being sent to Paita.

President of Ecuador says it is obligatory upon him to be prepared and he will mobilize 20,000 troops this week, and, if necessary, 20,000 next week.

President of Ecuador still hopeful for peace through the efforts of the United States, pointing out, however, that the having of 20,000 men in arms was very dangerous.

Fox.

Chargé Cresson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, April 14, 1910.

Threatened cabinet crisis following diplomatic council and censure of Peruvian minister for foreign affairs' policy by Pardo and his group has been averted. Peruvian minister for foreign affairs will not resign. He informed me this afternoon Ecuadorians are ready to negotiate amicable settlement for recent rioting. He seems to be more in the hope of amicable settlement whole matter.

CRESSON.

The Acting Secretary of State to the Ecuadorian Minister.

No. 45.]

DEPARTMENT OF STATE,
Washington, April 14, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, by which you inform the department that your Government has appointed you, Señor Dr. Don Felicísimo López and Señor Dr. Don N. Clemente Ponce as commissioners, with full powers to arrange at Washington, with such commissioners as Peru may designate, the boundary question between Ecuador and Peru.

The department is sensible of the friendly spirit of the Government of Ecuador in suggesting such a course. The success of the idea, however, would evidently depend upon its joint adoption by Peru and Ecuador, in which eventuality it is hardly necessary to say that the Government of the United States would most gladly facilitate the work if such a conference should be agreed upon between the two countries concerned.

Accept, etc.,

HUNTINGTON WILSON.

Minister Ide to the Secretary of State.

[Extract.]

No. 172.]

AMERICAN LEGATION,
Madrid, April 16, 1910.

SIR: I have the honor to report as follows:

On the morning of the 11th instant an interview was had with the minister of state, wherein he was informed that the Government of the United States was greatly interested in the preservation of peace between the two republics, with both of which it was on the most friendly relations, and that the President was especially pleased with the magnanimous course which the newspaper reports stated that the Spanish Government had taken with a view to urging the cabinets of Peru and Ecuador to adopt a conciliatory attitude toward each other. The minister replied that the Spanish Government had taken no further action than to telegraph the Spanish minister at Lima, who is also accredited to Ecuador, substantially as follows:

Inform interested governments that Government hopes that the present trouble may be settled amicably.

The minister of state stated that in his telegram no mention was made of the arbitration or of the King's considering it his duty to offer advice on the subject, but that the Spanish Government had merely expressed the hope that the difficulty might be settled peaceably. He added that he could not give expression to the views of the Spanish Government until in possession of fuller information from the Spanish minister at Lima. He remarked that no award had yet been made, nor had it been decided as to what it would be when it would be made.

I have, etc.,

HENRY C. IDE.

Minister Northcott to the Secretary of State.

[Extract.]

No. 68.]

AMERICAN LEGATION,
Bogota, April 19, 1910.

SIR: I have the honor to confirm my cable of April 11, reading as follows:

Colombian minister for foreign affairs in conference asked by him has just said to me verbally that he is informed that the Government of the United States will intervene to settle boundary disputes between Peru and Ecuador, and that he wishes the Government of the United States to know that Colombia claims territory in region in question and has great interest in the settlement of boundary, especially in Putumayo country, in conflict with both Peru and Ecuador.

On April 13 last a convention was signed leaving to arbitration the differences between Peru and Colombia. Copy of this convention and translation are inclosed, marked Nos. 1 and 2.

This convention has been received with marked disfavor by the masses here.

As reported in my cable of April 11 last, on that day I received a note from the foreign office requesting a conference with me at the ministry that afternoon at 3 o'clock. On going there Dr. Calderon stated that he wished to talk with me about the proposed mediation

of the United States between Peru and Ecuador, and asked me if I had been informed on this subject by my Government. On my stating that I had no information whatever as to that matter he replied that he had, and that he wished the Government of the United States to know that Colombia had great interests in the region in question (the Putumayo), claims that conflicted with those of both Peru and Ecuador. He then went at some length into the history of this region and concluded by requesting me to transmit to my Government, by cable if possible, his statement as to Colombia being interested. This I promised to do and did so at once.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure—Translation.]

Convention of April 13 concluded between Colombia and Peru.

[An amendment of that concluded Apr. 21, 1909.]¹

The Government of the Republic of Colombia and that of the Republic of Peru, desirous of fulfilling and amplifying the stipulations of article 10 of the diplomatic convention of amity and arbitration, concluded at Lima on the 21st of April, 1909, have resolved to conclude a convention which shall faithfully interpret its intentions. For which purpose they have duly authorized their respective plenipotentiaries, to wit, the President of the Republic of Colombia to Senor Dr. D. Carlos Calderon, minister for foreign affairs, and the President of Peru to Senor Dr. Ernesto de Tezanos Pinto, envoy extraordinary and minister plenipotentiary of said Republic at Bogota, who have agreed upon the following:

ARTICLE I.

The Governments of Colombia and Peru agree to constitute, by means of this convention, a mixed international commission whose duty it shall be—

1. To fix the amount of the pecuniary indemnity which one of two countries shall pay to the other for damages which the authorities or citizens of the one country may have inflicted upon persons or property of the other country in the region included between the Caqueta and Amazonas Rivers, up to the time of the date of this convention.

2. To determine the cases in which, in accordance with the laws of the respective countries, report shall be had to judicial investigation undertaken for the prosecution and punishment of the individuals responsible for punishable acts committed in the same territory and at the same time.

ARTICLE II.

The mixed commission shall meet at Rio de Janeiro and shall be composed of a delegate named by the Government of Colombia, another named by the Government of Peru, and of a referee, who shall be his excellency Senor Baron de Rio Branco, present minister of foreign affairs of the United States of Brazil, who shall preside in case of acceptance of the post.

ARTICLE III.

The Governments of Colombia and Peru shall request his excellency Senor Baron de Rio Branco to accept the post of referee in the mixed international commission, to which this convention refers, and in case he be unwilling or unable to accept the post the two Governments shall apply to his excellency the Minister of Great Britain at Rio de Janeiro for the same purpose. In case the British Minister also excuses himself from accepting they shall request his excellency the minister of the German Empire at Rio de Janeiro to occupy the post, and in case he also be unable to accept, the referee shall be named by mutual agreement of the delegates of Colombia and Peru at the time when they begin to exercise their functions as members of the mixed commission.

¹ See Foreign Relations, 1909, p. 507.

ARTICLE IV.

The referee shall be president of the mixed commission, and his vote and opinion shall be decisive in case of failure of the two other members of the commission to agree.

ARTICLE V.

The mixed international commission shall meet within four months after the date of the signature of the present convention and shall be empowered to send committees appointed by it to such points as may be considered necessary for the purpose of obtaining trustworthy information to illustrate their criterion and to serve as a basis for a verdict with full knowledge of the suit.

ARTICLE VI.

The Governments of Colombia and Peru may present to the commission every variety of exhibits, reports, allegations of evidence and counter evidence and defend their case orally and in writing with entire liberty during the period which the mixed international commission shall set for that purpose.

ARTICLE VII.

During a period of four months after the expiration of the time set for the presentation of allegations, replies and counter replies, evidence and counter evidence for the parties, the mixed commission shall hand down its decision for the determination of the suits in which resort shall be had to the judicial investigations, referred to in paragraph 2 of Article I.

ARTICLE VIII.

During the same period of four months the mixed international commission, in its^s arbitral decision, shall fix the amount which, in accordance with paragraph 1 of Article I, one of the two Governments must pay to the other as an indemnity in favor of individuals who may have suffered material or personal damages as the result of punishable acts, and in favor of the families of the victims of such acts.

ARTICLE IX.

Such payments shall be quoted in English gold and be liquidated in that currency in the capital of the country condemned to pay, not later than four months after the date of the decision handed down by the mixed international commission.

Private individuals having resort to the decision of the mixed commission for indemnification for damages suffered shall virtually renounce the right to claim fresh indemnification for the same causes from the Government which shall have settled the original claims.

ARTICLE X.

The mixed commission, after the completion of its task, shall communicate its decision to the respective Governments, in order that, after prosecuting the criminal cases which may have arisen, they may, in accordance with the laws of the respective countries, impose upon the guilty the penalties exacted by the said laws.

To determine which of the two Republics may be responsible in each case for the prosecution and punishment of the guilty the mixed commission shall observe the following rules:

1. It shall be the duty of the tribunals of each of the two Republics to be cognizant of offenses committed by their functionaries or public employees in the exercise of their duties.

2. It shall likewise be the duty of the tribunals of each of the two Republics to be cognizant of offenses committed by chiefs, officers, or soldiers, of their army or by the commanders, officers, or crews of their ships of war or of ships employed in that service.

3. To be cognizant of offenses committed by private individuals shall be the duty of the tribunals of the Republic in which the offense was committed.

In case the offense took place in territory disputed by both Republics the commission shall decide which of the two is responsible for being cognizant, taking into account to such end solely which of the two Republics held constitutional authority in said territory. But if the responsible party be present in a spot in possession of the country of his origin at the time when the mixed commission decides to which juris-

diction he must be submitted, he shall be judged in accordance with the laws of that country. Nationals of a third country shall be judged by the judges of that country in which they happen to reside after the signing of this convention. If the offenses took place in territory in which neither of the contracting parties held constitutional authority at the time, it shall be the duty of the tribunals of the country to which the accused individuals belong to be cognizant of such offenses.

The stipulations of this article do not imply on the part of one of the contracting Republics a recognition of jurisdiction exercised by its neighbor in disputed territory for other purposes than for those necessary for the carrying out of the arbitral award.

ARTICLE XI.

The decision of the mixed international commission shall be definite and nonappealable, and shall take effect upon the date of its signature.

The said decision shall be communicated to the legations of both countries at Rio Janeiro, and in default of this to the respective Governments.

ARTICLE XII.

The Governments of Colombia and Peru shall arrange and pay the salaries of their respective arbitrators, and shall jointly agree upon that of the referee. This last salary as well as other expenses of the mixed commission shall be equally divided and shall be paid by both Governments within the period of three months after deciding all questions submitted to the decision of the mixed commission.

ARTICLE XIII.

This convention shall be considered as an amendment of that concluded at Lima by his excellency the envoy extraordinary and minister plenipotentiary of Colombia at that city and the Peruvian minister for foreign affairs on April 21, 1909, and shall take effect from and after the date of its signature.

In faith of which they sign the present convention in duplicate at Bogota, the 13th of April, of 1910.

CARLOS CALDERON,
E. DE TEZANOS PINTO.

Chargé Cresson to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, April 22, 1910.

Have been informed by minister for foreign affairs of Peru that Ecuadorian answer proposing mutual excuses is not at all satisfactory to Peru and their proposals to resume direct negotiations inadmissible. Warlike preparations continue methodically in spite of negotiations.

CRESSON.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 12, 1910.

Repeat to Petropolis and yourself act on the following instruction: Say to the minister for foreign affairs that the Government of the United States is momentarily apprehensive of unnecessary war between Ecuador and Peru. Believing that the Governments of the Argentine Republic and Brazil feel the same apprehension

and fully share with the United States the desire to avert, by any proper means, an eventuality so dissonant to the spirit of Pan American relations, this Government inquires whether the Government to which you are accredited will join in a tripartite offer of mediation upon the basis of some such joint communication as the following, which you will hand textually to the minister for foreign affairs, at the same time pointing out the advisability of secrecy until the notes are presented and the great urgency of a reply which is the reason for cabling an actual text in view of the fact that this opportunity to contribute to the cause of American peace may disappear at any moment:

The undersigned representatives of the Argentine Republic, Brazil, and the United States of America, acting under telegraphic instructions from their respective Governments, have the honor to make the present joint identic communication simultaneously to their excellencies, the ministers for foreign affairs of Ecuador and Peru.

Actuated by a sincere desire that peace be not broken between any two of the sister American Republics, whose mutual regard, common institutions and inseparable interests should be a sufficient guarantee of a conciliatory spirit, and believing also that the moment has arrived for recourse by the Governments of Ecuador and Peru to the mediation of friendly and disinterested Governments, strangers to the dispute under the obligation of article 2, title 2, of The Hague convention of 1899 for the pacific settlement of international disputes, to which both Governments duly adhered, and which they solemnly reaffirmed as signatories to The Hague convention of 1907; and believing also that under articles 2 and 3 of the same conventions, it is opportune that friendly Governments should offer their good offices to avert war, the Presidents of the Argentine Republic, of Brazil, and of the United States of America ask earnest consideration of the following views by the Governments concerned:

It is unthinkable that Ecuador and Peru should go to war over a boundary dispute which both, by solemn agreement, submitted to arbitration. Neither would it be conscionable to sanction the repudiation of the award in advance by either party, for such sanction would dishonor the enlightened institution of arbitration, to which institution of an advanced civilization the American Republics are committed.

If the Governments of Ecuador and Peru will withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war and await eventualities, then in case no award is made or in case serious difficulties shall subsequently arise, the three Governments will undertake a satisfactory solution by mediation.

As for the question of an exchange of expressions of regret at the violence done the respective citizens and officials in the country of the other, no one can doubt the sincerity and good intention of each Government as to those regrettable incidents, and it should be a matter of no difficulty to arrive at a dignified adjustment through the mediating republics.

In offering these good offices on the part of their Governments, which entertain for the Governments concerned feelings of the greatest friendship, the undersigned avail, etc.

KNOX.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 13, 1910.

Immediately repeat to Rio de Janeiro and yourself act on the following instruction:

Yesterday the minister of Chile left at the department the following paraphrase of his telegraphic instruction:

Inform the Secretary of State that the situation between Ecuador and Peru is a grievous one, the armies of the countries being very near. Ask him what in his judgment is possible and practicable to prevent the outbreak. Chile is ready to cooperate in any peaceful settlement of the conflict. (Signed.) EDWARDS.

I shall to-morrow morning fully explain to the minister of Chile the proposed tripartite mediation and shall hand him an aide-mémoire from which I quote, for your information, the following three extracts:

1. With regard to the minister's question Mr. Knox replies that prior to his conversation with Mr. Cruz on Thursday the President had already determined upon and taken action on the manner to-day orally described confidentially in all its detail.

2. The fear that present Chilean-Peruvian relations and, indeed, the fact that Chile has now no diplomatic representation at Lima, might cause the Government of Chile embarrassment in receiving such a suggestion alone deterred the President from inviting, in the first instance, the cooperation of Chile in precisely this manner. It is confidently hoped, however, that the Chilean Government will see in the opportunity afforded to use its influence in favor of the success of this mediation an occasion to cooperate effectively.

3. This full information, will, of course, be regarded as strictly confidential until, if the project be carried out, the joint representations shall have been made at Quito and Lima, after which, if Chilean-Peruvian relations are such that Chile shall find it practicable to participate in the mediation, such participation will be most welcome to the United States.

You will discreetly explain to the minister for foreign affairs that Chile's offer to cooperate, happening to come immediately after the action taken in the telegram of yesterday, placed me in a position where it became proper to make these confidential explanations and that my own idea would be to make no modification in the policy proposed, but later when the tripartite mediation had been accepted then to favor the inclusion of Chile if found practicable and agreeable to all the Governments concerned.

KNOX.

Minister Sherrill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, May 14, 1910.

Argentine minister for foreign affairs states that he is authorized by the President to accept your text proposed in May 12, and has instructed his ministers in Quito and Lima accordingly. He requests you to instruct our representatives there to put themselves in touch with his ministers. He already knew the text of Edwards' telegram reported in your May 13.

Argentine minister for foreign affairs thoroughly approved policy outlined in your May 13, and requests me to reiterate that he desires to act in full accord with others in Peru-Ecuador and Tacna-Arica questions.

SHERILL.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, May 14, 1910.

Your May 12 received to-day through Buenos Aires. Desirous of joining in the tripartite offer of mediation the Government of Brazil will telegraph at once to its legations at Lima and Quito a Portuguese translation of the joint note you have submitted and

instruct each to arrange to sign a Spanish version of it with the American and Argentine representatives as soon as they are authorized.

DUDLEY.

The Secretary of State to Minister Fox.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 15, 1910.

The Argentine Republic and Brazil have accepted this Government's proposal of tripartite mediation. You will therefore immediately place yourself in touch with your Argentine and Brazilian colleagues, who have received instructions to join you in delivering at the earliest possible moment the joint note, of which you have the text, and which is to be delivered identically and simultaneously to the Governments of Ecuador and Peru.

Cable me the moment the note has been presented. I shall thereupon make it public here, subject to agreement with the two Governments, joining in the mediation for similar action at Buenos Aires and Rio de Janeiro. You will realize that publicity is very important to the moral effect. I am sending a similar instruction to the legation at Lima.

KNOX.

The Secretary of State to Minister Sherrill.²

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 15, 1910.

I have sent the legations at Quito and Lima the following telegraphic instructions (May 15, *supra*):

In explaining this to the minister for foreign affairs express very cordially my gratification that the views of our Government have proved so happily to coincide and my earnest hope that our cooperative efforts may be successful. Cable at once whether the Government to which you are accredited assents to publication of the note in the three capitals by the respective Governments so soon as each has been informed that it has been presented.

KNOX.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, May 16, 1910.

Minister of the Argentine Republic, Brazilian charge d'affaires, and I jointly presented to minister for foreign affairs of Peru the text of the tripartite proposal unsigned, minister of the Argentine

¹ Same to the legation at Lima.

² Same to the American Embassy, Petropolis.

Republic not having received instructions. Formal action will be taken at the receipt of minister of the Argentine Republic instructions. Minister for foreign affairs of Peru thanked us, seemed pleased, no comment.

COMBS.

Minister Sherrill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, May 16, 1910.

Your May 15. Argentine minister for foreign affairs reciprocates your cordial messages and agrees to publication of notes at respective capitals after presentation.

SHERRILL.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 16, 1910.

Department's May 15, also Sherrill's May 14. Argentina has diplomatic representative residing here. Argentine minister accredited here has never been officially received. He resides in Lima. Charge d'affaires of Brazil has received no instructions as yet, but we are preparing note to be ready for immediate delivery when he receives his authority.

Under the circumstances, shall charge d'affaires of Brazil and I proceed jointly without Argentina? Full instructions asked for.

FOX.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 17, 1910.

The minister at Lima telegraphs that the joint note was presented unsigned because the minister of the Argentine Republic was not yet fully instructed. Has he now full instructions?

KNOX.

The Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 17, 1910.

Very urgent. In view of the perfect understanding between this Government and the Argentine Government you will present the joint note with your Brazilian colleague without the slightest delay.

The Argentine Government will undoubtedly subscribe as of the same date by a telegram from their minister for foreign affairs to the minister for foreign affairs of Ecuador or by delegating to some one full powers to sign for the Argentine Government. I am telegraphing to Buenos Aires to suggest this.

KNOX.

Minister Combs to the Secretary of State.

[Telegram—Extract.]

AMERICAN LEGATION,
Lima, May 18, 1910.

Charge d'affaires of Brazil has received renewed instructions to sign only Spanish text. Argentine minister is authorized, if necessary, to sign English.

COMBS.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, May 18, 1910.

Minister for foreign affairs of Peru informed me English text was satisfactory. His Government ready formally to accept proposal when formally presented.

COMBS.

The Acting Secretary of State to Minister Combs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1910.

Your telegrams of to-day. The one splendid and all-important fact is the joint offer of mediation by the three Governments, which are in such entire accord. In these happy circumstances any unnecessary quibbles would be folly. As for the perfection of those formalities and unessential details which haste made it impossible to arrange in advance, as a matter of procedure the department thinks that all three representatives should sign the English, Spanish, and Portuguese texts, the signatures of each taking precedence in the text of his own language. The department has examined the Portuguese text and does not doubt that the Spanish is equally satisfactory. Your actual presentation of the note on the 16th and its formal delivery at Quito to-day having satisfied the condition of publication, the department to-day gives out a full official statement. The Government of the United States is happy to learn that Peru will accept.

WILSON.

The Acting Secretary of State to Ambassador Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1910.

For the immediate information of the Brazilian Government I quote the following telegram now to be sent to the legation at Lima (supra).

WILSON.

The Acting Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1910.

For your guidance I quote the following telegram now to be sent to the legation at Lima and communicated to the Argentine and Brazilian Governments (supra).

WILSON.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1910.

For the immediate information of the Argentine Government I quote the following telegram now to be sent to the legation at Lima (supra):

The minister at Quito and his Brazilian colleague presented the note to-day. By what method has the Argentine Government signified its joint action at that capital?

WILSON.

Minister Sherrill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, May 18, 1910.

Argentine minister for foreign affairs says he is telegraphing Ecuadorian minister for foreign affairs in accordance with your May 17. Argentine minister for foreign affairs reiterates that his minister at Lima is already instructed to sign either the Argentine Spanish text or the United States text, leaving the Brazilian minister to sign such text as pleases him.

SHERRILL.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 18, 1910.

Department's May 17. Note delivered jointly with Brazilian colleague to-day at noon.

FOX.

Ambassador Dudley to the Secretary of State.

[Telegram—Extract.]

AMERICAN EMBASSY,
Petropolis, May 18, 1910.

Reference department's May 15. Rio Branco to-day assented to proposed publication of joint note in the three capitals. Publication here, though complete as a Portuguese translation, may purport to be a résumé.

DUDLEY.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 20, 1910.

Cablegram received to-day by minister for foreign affairs from Ecuadorian commissioner Madrid states that minister advises him by note that he has counseled King of Spain to defer pronouncing boundary decision, His Majesty and Government leaving to the parties concerned free hand to procure direct settlement. Same note sent to Peruvian legation, Madrid.

FOX.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, May 23, 1910.

Mediation was delivered to minister for foreign affairs of Peru last night in English, Portuguese, and Spanish texts, one signature to each.

COMBS.

The Ecuadorian Minister to the Secretary of State.

[Translation.]

LEGATION OF ECUADOR,
Washington, May 23, 1910.

MR. SECRETARY: Supplementing the memorandum I left at the Department, I have the honor to repeat in this note that my Government accepts the friendly mediation tendered by the United

States, Brazil, and Argentine Republic for a direct settlement of its boundary dispute with Peru in accordance with article 6 of the arbitration convention between the two countries, and that, with that object in view, His Majesty the King of Spain has officially advised the Ecuadorian legation at Madrid, through his secretary of state, that he withholds his award so as to let the two Republics freely and directly settle their territorial controversy.

As an eyewitness of your excellency's generous efforts to bring the conflict between Ecuador and Peru to an honorable, peaceful end, conformably to the most excellent President Taft's elevated foreign policy, I perform the pleasant duty of sincerely congratulating your excellency on the brilliant diplomatic triumph you have achieved, with the cooperation you sought of Brazil and the Argentine Republic, and I find gratification in my having contributed thereto in the cause of the peace and fraternity of the American Republics.

Convinced that this most noble precedent will prove of great benefit to the relations of the States of this continent, I take great pleasure in renewing to your excellency the assurances of my highest consideration and personal regard.

L. F. CARBO.

Minister Combs to the Secretary of State.

No. 355.]

AMERICAN LEGATION,
Lima, May 23, 1910.

SIR: I have the honor to announce a formal delivery of the proposal of mediation by the Argentine Republic, Brazil, and our Government was made at 11 o'clock last night to the minister of foreign affairs of Peru.

The text presented by the Department of State to Argentina and Brazil in its proposal of mediation was signed and delivered by me, while the representatives of Argentina and Brazil signed their translations of that text each in his own language.

Mr. Porras thanked us again for the mediation, and said the answer of his Government had been ready since Wednesday last and would be formally communicated at once.

I have, etc.,

LESLIE COMBS.

Minister Combs to the Secretary of State.

No. 356.]

AMERICAN LEGATION,
Lima, May 23, 1910.

SIR: I have the honor to forward by this mail, but too late for the pouch or translation, a copy of the formal note of acceptance of the Peruvian Government of the proposal of mediation.

I have, etc.,

LESLIE COMBS.

[Inclosure—Translation.]

The Minister of Foreign Affairs to Minister Combs.

No. 18.]

LIMA, May 23, 1910.

MR. MINISTER: I have had the honor to receive the valued communication of your excellency, under date of the 22d instant, designed for the purpose of tendering the good offices of the Governments of the United States of America, the Argentine Republic, and Brazil with a view of preventing a disturbance of the peace between the Republics of Peru and Ecuador.

My Government has given careful consideration to the declarations which the three aforesaid Governments have spontaneously and jointly expressed and appreciating at its full value the lofty and noble purpose which has inspired them, accepts with the greatest satisfaction the kind offices offered.

My Government does not hesitate to declare its acceptance in this manner not only because of its own feeling toward this noble purpose and of the deference it owes to the three great American Republics with which it maintains cordial and honorable relations of friendship, but also because it holds that the initiative formulated implies an act that will convey to the mind of the royal arbiter chosen to settle our boundary dispute with Ecuador a new evidence of the respect that the fulfillment of his high office merits.

I fulfill likewise the pleasant duty of expressing our sincere gratitude for the proposition transmitted, which must assuredly strike a responsive chord in this continent.

I take, etc.,

M. F. PORRAS.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 24, 1910.

Ecuadorian Government received yesterday from Argentine minister at Lima, over his signature, full text note. Formalities now completed. We are having to-day conference with minister for foreign affairs, at his request, for the purpose of discussing Ecuador reply to joint note.

Fox.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 25, 1910.

Following is a translation of a note received last night from minister for foreign affairs addressed to representatives of the Argentine Republic, United States of Brazil, and the United States of America:

I have the honor to acknowledge the honored note in which my Government is informed that the Argentine Republic, United States of Brazil, and the United States of America, moved by the sincere desire to avoid the disturbance of peace between Ecuador and Peru, have resolved to present for the consideration of the two Governments concerned the conciliatory suggestions contained in the above-mentioned note. I will begin by praising and acknowledging the high-minded propositions of the powers which, giving eloquent examples and practices of their Americanism, desire that the Ecuadorian-Puruvian conflict have a decorous and fraternal solution, as it should have in order that the harmony of the South American Continent be not disturbed and which is rapidly advancing in the path of progress for the benefit

of peace. Ecuador abounds in sentiments of concord, and in the unfortunate incident of the present moment with the Peruvian Republic has employed all possible conciliatory measures to reestablish the harmony between the two nations. Ecuador does not desire war nor does she excite it, but if she is forced to such a painful extremity it is necessary for her to accept it in fulfillment of her duty. And for the same reason the gratitude of my Government is profound towards Their Excellencies the Presidents of the Argentine Republic, United States of Brazil, and the United States of America for their effective good offices in favor of South American peace. But I should call your attention to the incontestable fact that Ecuador does not attack in any manner the sacred principle of arbitration, an institution belonging to an advanced civilization. The Government of Ecuador, in the face of the discontent and criticism of the people, justified by the projected arbitration decision now known to all, has desired rather to remove all danger of a war which would depreciate this saving principle, and has invited the Government of Peru to a direct settlement, in compliance with article 6 of the very treaty of arbitration of 1887. Peru can not deny the above-mentioned arrangement, for the violation of the before-mentioned articles 6 by the same deed, would take away all objects to be derived from the treaty of arbitration. At the same time it would show beyond all doubt that that nation is not animated by the same fraternal intentions as Ecuador. The attitude of the Government of Ecuador is consequently founded in strict justice and a perfect right and has been inspired by the most sincere desires to maintain peace and also the prestige of the institution of arbitration. The Spanish Government without doubt taking into consideration all these reasons has counseled the royal arbitrator to defer pronouncing the decision and leave the parties at liberty to arrange their differences in a direct manner. Notified of this resolution the Ecuadorian minister has accepted it in such a manner that, in the actual state of the question, no other means of finding a solution of the conflict remains other than the direct settlement. Ecuador esteems and thanks the illustrious Governments of the Argentine Republic, United States of Brazil, and the United States of America for their very valuable mediation in this direction, and has the pleasure to manifest that she accepts it from this moment, offering to send her commissioners with full powers for the conferences relative to a direct settlement to that American capital which the mediating powers shall designate, though I should call to mind that in the preliminaries initiated by the suggestion of the United States for a direct negotiation Ecuador designated the city of Washington. I will also advise that the Republic of Colombia should take part in the direct settlement, whatever it may be, for the reason that article 26 of the treaty of July 9, 1856, renewed on August 10, 1905, imposes on the two nations the obligation to work together in defense of the territory of "Old Colombia," which to-day belongs to them. And this participation is specially necessary for the reason that it will terminate all the differences regarding the boundaries in the Amazon Valley, making thus a definite peace between the nations who have their boundaries there, under the moral influence of the mediating powers. As for the incident relative to the hostile manifestations against the legations and consulates of Ecuador and Peru, my Government accepts with pleasure the generous and fraternal mediation offered, and believes that the solution of the conflict will not offer great difficulties.

Accept, etc.,

PERALTA.

FOX.

The Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 26, 1910.

Department can not credit press dispatch from Guayaquil saying warlike preparations continue, and that Gen. Franco is leaving to assume command of Ecuadorian forces. Very discreetly ascertain and report what steps have been taken by Ecuadorian Government to withdraw troops and cease military preparations.

KNOX.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, May 26, 1910.

President of Ecuador requests me to cable Secretary of State that Ecuador is ready to withdraw her troops from the frontier on the day fixed upon by the mediating powers for Ecuador and Peru to retire their forces.

Fox.

The Ecuadorian Minister for Foreign Affairs to the Ecuadorian Minister.¹

[Memorandum—Telegram.]

QUITO, May 26, 1910.

Legation of Ecuador, Washington: Peru refuses to comply with the article 6 of the arbitration convention, notwithstanding that the royal arbiter, in order that the mediation should be effective, has withheld the award to facilitate a direct settlement in accordance with article 6.

Please tell the American Government that the Government of Ecuador believes that his answer to the United States, Brazil, and Argentina is correct, because the only means to avoid war and to safeguard the prestige of the principle of arbitration is to accept the friendly mediation, fulfilling at the same time the obligations imposed upon both countries by the article 6 of the arbitration convention in accordance with the attitude that was assumed by the royal arbiter when he took notice of the mediation. Besides, if Peru violates the article 6 the treaty will be without value.

The Government of Ecuador hopes that the mediators will easily persuade Peru that there is no object in putting such obstacle in the way of a mediation so well conceived by the illustrious Secretary of State, Mr. Knox, who, with his enlightened foreign policy, has established an important precedent in the diplomatic history of America.

MINISTER OF FOREIGN AFFAIRS.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 28, 1910.

For your action and for repetition to Rio for action and to Lima and Quito for their information and guidance.

The United States minister to Ecuador telegraphs me as follows:

The President of Ecuador requests me to telegraph Secretary of State that Ecuador is ready to withdraw her troops from the frontier on the day fixed upon by the mediating powers for Ecuador and Peru to retire their forces.

The minister from Ecuador to the United States has stated to me that his Government is prepared to remove her troops from the frontier whenever the mediators indicate a time, and has requested that the mediators be asked to fix such time.

¹ Left at the Department of State by the Ecuadorian minister.

The minister from Peru has also urged that a time be fixed, saying that to do so would be helpful to his Government in complying with the conditions of the mediation.

You will say to the minister for foreign affairs that I therefore suggest that in order to enable Peru and Ecuador to comply more easily with the first condition of the mediation, the three powers instruct their representatives at Quito and Lima to join in recommending June 4 as the day for withdrawing their troops from the frontier in compliance with the terms of the mediation. Also say that if the Government to which you are accredited agrees, as I hope it will, to take similar action, I will immediately instruct our representatives at Quito and at Lima so to cooperate with their Argentinian and Brazilian colleagues.

KNOX.

Minister Sherrill to the Secretary of State.

[Telegram—Extract.]

AMERICAN LEGATION,
Buenos Aires, May 29, 1910.

Your May 28 Argentine minister for foreign affairs agrees to instruct his representatives accordingly.

SHERRILL.

Ambassador Dudley to the Secretary of State.

[Telegram—Extract.]

AMERICAN EMBASSY,
Petropolis, May 30, 1910.

Your May 28 repeated from Buenos Aires. Brazilian minister for foreign affairs says the representatives of Brazil at Lima and Quito will be instructed immediately to join in proposed recommendation for withdrawal of troops June 4th.

DUDLEY.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, May 31, 1910.

Called upon minister of foreign affairs with colleagues; fixed day for withdrawal of troops according to instructions. Minister asked in what terms Ecuador had accepted mediation; replied was not officially informed. Minister said Peru had accepted unconditionally and publicly. He was informed by his representative in Quito, Ecuador had attached such impossible conditions as to defeat mediation; asked for terms of Ecuador answer before replying to request for withdrawal troops. Identical telegrams sent by colleagues to their Governments. Minister of Argentine has text of Ecuadorean answer if we shall submit it.

COMBS.

Aide-Mémoire to the Chilean Legation.

DEPARTMENT OF STATE.

Washington, June 1, 1910.

On May 14 the Secretary of State asked the Chilean minister to give his Government the fullest assurances that nothing could be more agreeable to the Government of the United States than to have the cooperation of Chile, and that if Chilean-Peruvian relations should later become such as to make it practicable for Chile to participate in the mediation, such participation would be most welcome to the United States. These assurances were given even before the Government of Ecuador intimated that, for its part, Chilean participation in the mediation would be agreeable.

As for preliminary discussion of an arrangement of the boundary question, the United States sees at this time no legitimate occasion whatever for any such discussion, which would be entirely premature.

Mediation as to the boundary dispute can only occur—first, if the fact be established that there is to be no award, or, second, if after an award difficulties should arise. The mediation was offered upon definite conditions, and its acceptance, already made by both Peru and Ecuador, obviously is the acceptance of those conditions and the imposition of no others. The first condition was that the two Governments should “withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war, and await eventualities.” All questions as to the boundary are precisely the eventualities which Peru and Ecuador solemnly undertook to await. The mediating powers have recommended to the Governments of Ecuador and Peru that on June 4 they carry out this paramount obligation, which is the first to arise since their acceptance of the mediation.

Relying upon the cordial assurances of cooperation given by the Chilean Government, the Secretary of State now asks the chargé d'affaires to inform his Government that he sets great store by the avowed influence of Chile upon Ecuador to withdraw its troops on June 4, thus discharging the first of those conditions arising from its acceptance, which can only be unconditional, and thus averting war and awaiting eventualities which may include mediation, in which case the Secretary of State repeats that the participation of Chile in the discussion will be most agreeable to the United States if only the circumstances at the time should make it practicable.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,

Washington, June 1, 1910.

This telegram is for repetition to the American embassy at Petropolis for its information, guidance, and discreet use, as well as for your own. It is to be repeated for the information of the American legations at Quito and Lima.

The Chilean chargé has asked an expression as to the intimation of Ecuador to this Government of a desire that the Government of

Chile have some part in the preliminary discussion of an arrangement of the Peru-Ecuador boundary, and the following aide-mémoire will to-day be handed him. (See aide-mémoire above.)

KNOX.

The Secretary of State to Ambassador Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

Inform Baron Rio Branco that I heartily concur in his suggestions as reported in your May 30, and that when Ecuador and Peru shall have complied with the first condition, to "withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war and await eventualities," the Government of the United States will be happy to join in recommending as the next step reciprocal expressions of regret through simultaneous exchange of notes or preferably a protocol, since this Government will then consider the condition of mediation for that particular purpose to be satisfied.

As for negotiations through the mediation of the three powers upon the boundary question, if such mediation ultimately comes about through the eventuality of its being definitively determined that there is to be no award, or else through the eventuality of an award followed by difficulties, it is the view of this Government that such eventual mediation should be carried on at one of three capitals, and you will not fail to assure Baron Rio Branco of my appreciation of his excellency's courteous suggestion that Washington be in such event selected.

If Peru and Ecuador fulfill on June 4 the first condition then it will seem advisable to the Government of the United States that in order to simplify the application of the tripartite good offices in the negotiation of the protocol of apology, or as to any other matters which may properly arise even in advance of the possible ultimate mediation in the boundary question, one of the three capitals should be selected where the three Governments could make joint representations to the representatives of Peru and Ecuador there accredited.

Repeat your telegram and this reply to the legation at Buenos Aires for its information.

KNOX.

Aide-mémoire to the Ecuadorian Legation.¹

DEPARTMENT OF STATE,
Washington, June 1, 1910.

In a note addressed May 24 to the representatives of the mediating powers the Government of Ecuador accepted as of that date the offer of mediation. The mediation was offered upon definite conditions and its acceptance obviously is the acceptance of those conditions with the imposition of no others. The first and paramount

condition was that the two Governments should "withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war, and await eventualities."

The note of the Ecuadorian Government set out the point of view of Ecuador upon matters the discussion of which at this time is entirely premature and inappropriate. Mediation as to the boundary dispute can only occur—first, if the fact be established that there is to be no award; or, second, if after an award difficulties should arise. Evidently all of these questions as to the boundary are precisely the eventualities which Peru and Ecuador by their acceptance solemnly undertook to await.

After a delay already surprising it is of paramount importance that this primary obligation of the acceptance made be carried out on June 4. The Government of the United States can see no ground upon which either Peru or Ecuador could justify a failure to do so or could reconcile it with the recognized dignity and good faith of their intentions.

The Secretary of State to Minister Fox.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

Act on the department's May 28.

Immediately make strong representations to the Government to which you are accredited in the sense of the following aide-mémoire to-day handed the representatives of Ecuador and Peru at Washington.²

KNOX.

The Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

For immediate communication to the Government to which you are accredited and for repetition to Petropolis for corresponding action.

I shall to-day hand the following aide-mémoire to the representatives of Ecuador and Peru, and shall instruct our representatives at Quito and Lima to make strong representations in the same sense to the two Governments, since the time is too short for consultation and since, in any case, I feel sure that this faithfully represents the views held also by the Governments of the Argentine Republic and of Brazil, which have doubtless taken similar steps.³

KNOX.

¹ Same to Lima.

² See *supra*.

³ Aide-mémoire, *supra*, ¶ 1.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, June 2, 1910.

Your June 1 is very satisfactory to Government of Peru. Minister for foreign affairs of Peru informs representatives of the mediating powers will withdraw forces from the frontier June 4.

COMBS.

The Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 2, 1910.

The following telegram has been received from the legation at Lima (*supra*, June 1):

Hasten solemnly to impress the Government of Ecuador with the fact that by failure to take similar action and to make their acceptance unencumbered with premature arguments they would assume before the world the responsibility of jeopardizing the mediation and of the grave consequences which might follow.

KNOX.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 2, 1910.

Department's June 1 received. This morning Brazilian chargé d'affaires and I conveyed to minister for foreign affairs the information that June 4 had been fixed upon by the mediating powers as the day for Ecuador and Peru to withdraw their troops from the frontier. I later saw President of Ecuador, who himself informed me that he had given orders at 2 p. m. to-day for withdrawal of the troops from the frontier and hoped that operations would be completed in eight days. President of Ecuador informed me further that he had last night received a telegram advising him that Peru had sent 3,000 more troops to Paita on the frontier. He would like to have this matter explained.

I have complied with department's instructions and strongly and earnestly presented the views of the Secretary of State, leaving with the minister for foreign affairs a Spanish memorandum in the sense of the aide-mémoire.

FOX.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 2, 1910.

Ecuadorian Congress met yesterday extraordinary session. President's message¹ discusses situation historically, saying Ecuador has accepted mediation warmly; congratulates mediating powers; says that Chile could not take part on account interrupted relations with Peru; points out that Colombia on account of existing treaties must be included in settlement.

FOX.

Minister Sherrill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, June 3, 1910.

Your June 1-2. Argentine minister for foreign affairs is in complete accord with you.

SHERRILL.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 3, 1910.

Gen. Franco, commanding Ecuadorian army on the frontier, has telegraphed to-day minister of war that he has commenced to withdraw his troops.

FOX.

The Secretary of State to Minister Combs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 3, 1910.

For your information and that of Peruvian Government: The President of Ecuador has informed our minister at Quito that orders were given June 2 for withdrawal of the troops from the frontier, and that he hoped that the operations would be completed in eight days.

KNOX.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, June 3, 1910.

Your telegram June 1. Brazilian minister for foreign affairs will instruct Brazilian representative at Quito and Lima to present note

¹ See p. 463

identical with your aide-mémoire to the representatives of Ecuador and Peru, and authorizes me to assure you he will endeavor to promote desired Chilean cooperation at Quito.

DUDLEY.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 3, 1910.

Minister for foreign affairs just now called on me at the legation and confirmed my statement in cable of yesterday that troops had on June 2, been ordered to withdraw from the frontier. Further he said that the Government of Ecuador would later reply to my presentation of the views of the Secretary of State.

FOX.

The Ecuadorian Minister to the Secretary of State.

ECUADORIAN LEGATION,
Washington, June 4, 1910.

MY DEAR MR. KNOX: I have the pleasure of inclosing you a copy of the cablegram of the President of Ecuador, dated yesterday, which I have received only this morning.

I congratulate you heartily on the splendid result obtained by your endeavor, and, thanking you again for all that you have done in favor of peace and American confraternity,

I remain, etc.,

L. F. CARBO.

[Inclosure—Telegram.]

QUITO, June 3, 1910.

The President of Ecuador to the Ecuadorian Minister.

I was notified yesterday (Thursday) about the date set for the retirement of troops from the frontiers. Immediately I gave orders for their mobilization to the neighboring Provinces.

Please explain that long distances require time to withdraw the army scattered about the different towns of the frontier, but all will be accomplished in six days.

ALFARO.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 5, 1910.

Minister for foreign affairs has sent note to me, confirming withdrawal of the troops and giving certain details of the operation. Translation of the note continues, as follows:

June 4. In reference to the memorandum which your excellency was pleased to place in my hands, it is my duty to remind you that we were in accord in the conference of May 23, in which my Government received the gracious offer of the Argentine Republic, United States of Brazil, and of the United States of America, that the offer had two parts: The first relative to future mediation, in connection with the

principal question as to the boundaries; and the second, actual mediation upon the incident which arose from the unfortunate occurrences on the first days of April both in Ecuador and Peru.

The right interpretation of the mediation being thus established, I stated verbally in the conference and afterwards in the note of May 24, that Ecuador demanded from Peru fulfillment of article 6 of the treaty of arbitration of 1887; that the above-mentioned Republic could not refuse a direct settlement, for the breaking of the aforesaid article 6 would leave the treaty itself without value or effect; that the royal arbitrator, in view of all this, had deferred pronouncing the award in order that the parties should arrive at a friendly and expedient arrangement; that in view of a new aspect of the controversy no other pacific solution was possible than direct settlement.

As the offer of mediation relative to the boundaries was for the future, I frankly indicated that the only conditions which, when the case comes up, would make effective the labor of the mediating powers, and as my Government has the greatest confidence in nations so illustrious and great, I manifested in advance the acceptance of Ecuador, in the indicated sense; that is to say, in that of the direct arrangement. It would neither be possible for us to accept another solution now, nor can the royal arbitrator pronounce the decision, now that Ecuador has accepted the suspension of the judgment, expressly declaring that it could not be renewed without the joint petition of both parties. And were it not thus, Ecuador would not in any case renounce the right which article 6 of the treaty of arbitration concedes—to ask, as it has asked, that our opponent come to a direct negotiation before the pronouncing of the arbitration decision, since the above-mentioned article is just as binding as the rest of the treaty, and that, broken by Peru, Ecuador would be free from all obligation arising from the aforesaid treaty. Our acceptance was then strictly within the limit of article 6 of the treaty of arbitration, in accordance with that already decided upon by the royal arbitrator as to the suspension of the arbitration award and for the future.

It is not thus relative to the second part of the offer of mediation, which being for the present, was accepted from that moment by the Government of Ecuador. I have believed it necessary to insist in this, in order to make clear the bases of the ulterior discussions which you were pleased to announce to me. I have transmitted this note also to the other worthy representatives of the mediating powers.

PERALTA.

Fox.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 6, 1910.

Ecuadorian Congress, June 2, conferred extraordinary powers upon the Executive under article 83 of the constitution. June 4 the following executive decree issued and first published this evening:

The only article as follows: The army continues in the state of campaign. Minister of war is charged with execution of this decree.

(Signed.) ALFARO and MARTINEZ AGUIRRE.

Opinion is that action taken is precautionary, due to the rumor of internal uneasiness.

Fox.

The Secretary of State to the Chilean Chargé.

DEPARTMENT OF STATE,
Washington, June 9, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: In answer to your inquiry of the 4th instant I beg to hand you herewith a memorandum embodying the views of the United States on the suggestion made by the Ecuadorian Government on May 26.

In placing this memorandum in your hands permit me to express the appreciation of the Government of the United States for the influence exerted by Chile upon the Government of Ecuador in bringing about the withdrawal of her troops from the Peruvian frontier.

I am, my dear Mr. Yoachim, etc.,

P. C. KNOX.

(Inclosure—Memorandum.)

DEPARTMENT OF STATE,
Washington, June 9, 1910.

The Government of the United States regretted to be unable to receive with its usual sympathy the proposal of the Ecuadorian memorandum of May 26, for the reason that the proposal apparently sought to invoke Article VI of the arbitration convention of 23 years ago, and under it at this late date to insist, without the consent of Peru and as a right, upon fresh direct negotiations.

The situation is substantially this: Ecuador and Peru in 1887 concluded a treaty submitting their boundary dispute to the arbitration of the King of Spain. In this treaty the following article was incorporated:

Before rendering the arbitral award, and within the shortest period possible following the exchange both parties will use their best efforts to settle through direct negotiations all or some of the points comprised in the boundary questions, and in the event of such agreements being reached and perfected in accordance with the forms required for the validity of public treaties, they shall be made known to His Catholic Majesty, thus bringing the arbitration to an end or confining it to the unsettled points, as the case may be. Failing a direct agreement, the award shall be rendered to its full extent as provided by Article I.

Several unsuccessful efforts were made under the provisions of this article to directly adjust some or all of the differences between the two countries, but they failed, and the case proceeded before the arbitrator; evidence was produced by both parties in support of their respective contentions, the case closed, and for some time the decision of the arbitrator has been expected.

Rumors circulating as to the probable nature of the award produced an agitation in both countries which unfortunately soon manifested itself in preparations for war.

These preparations were of such a character and proceeded to such an extent as to cause belief throughout the world that war between the two countries was imminent, and the Republics of Argentina, Brazil, and the United States, mindful of their friendliness to both countries and anxious to preserve the peace in this hemisphere, proposed to both countries that if they would retire their troops from the frontier, cease warlike preparations and await eventualities, in case of no award or difficulties arising under the award, the three Republics would be glad to act as mediators to adjust the differences between Ecuador and Peru.

Both countries accepted this offer of mediation. Ecuador has concurrently with the acceptance of the offer of mediation, and subsequently, reverted to the desirability and her willingness to undertake direct negotiations for the settlement of the question under Article VI above quoted, but Peru has not indicated a willingness to do so.

Assuming the concurrence of the other two mediating powers, the Government of the United States would hold the view that direct negotiations could only occur at this juncture if happily either in pursuance of or irrespective of Article VI both parties desired them.

By their voluntary act both Ecuador and Peru have resumed a status of peace and have undertaken calmly to await the definite establishment of the fact that there shall be no award, or the making of an award followed by difficulties, in either of which eventualities the tripartite mediation will equally become operative.

Convinced that this view will bear the closest analysis and in the absence of evidence that both Governments desire to attempt a direct settlement, while on the other hand mediation has been accepted by both, the Government of the United States could not indeed avoid surprise at the proposal in question as based upon Article VI.

It should, however, by no means be inferred that if both parties choose to revert to Article VI or in any other manner to agree upon a direct settlement such result could be otherwise than agreeable to the mediating powers, because it would accomplish the very object of the mediation.

¹ Copies sent to Chargés of Brazil and Argentina, and to ministers of Peru and Ecuador, dated as above.

That there should have at first existed any confusion or divergence of opinion as to any phase of the situation is only deprecated because of the unfortunate impression which it may produce and the Government of the United States is unwilling for a moment to believe that the Government and people of Ecuador could fail to share with the Government and people of Peru the fullest confidence that their rightful interests will be safeguarded by friendly mediating powers, whose sole desire is impartially to serve the two countries through mediation, which is known to diplomacy as the highest form of conciliatory good offices and which, according to The Hague convention, imposes upon them a duty which "consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance."

The Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 9, 1910.

Referring to all your telegrams up to that of June 5, the reported attitude of Ecuador is such that the department feels that it will not be out of place for you to make more energetic, sympathetic, and lucid explanation of the unanimous position of the mediating powers. In doing so you should say that unfounded popular rumor that the United States is otherwise than absolutely impartial is too absurd to be noticed by this Government and should be easily corrected by the Government of Ecuador. For your further guidance and for communication to the minister for foreign affairs I quote the following memorandum which explains itself. It will be to-day handed to the chargé d'affaires of Chile, copies being given the minister of Peru and Mr. Carbo, who fully appreciates the situation and is bending every effort to serve the obvious interests of his country. [Memorandum supra inserted here.]

Repeat the foregoing to the legation at Lima for its information.

KNOX.

The Acting Secretary of State to the Brazilian Chargé.¹

DEPARTMENT OF STATE,
Washington, June 10, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: I beg to inclose for your information a copy of an aide-mémoire² which was handed to the chargé d'affaires ad interim of Chile on the 1st instant and a copy of an aide-mémoire,² which was addressed to the diplomatic representatives of Ecuador and Peru at this capital on the same day, in reference to the mediation between Peru and Ecuador for the settlement of their differences in connection with the arbitration of their conflicting boundary claims.

These aides-mémoire have been communicated by cable to the American embassy at Petropolis, for communication to your Government.

I am, my dear Mr. de Lima, etc.,

HUNTINGTON WILSON.

¹ Same to Argentine chargé.

² Supra.

The Secretary of State to the Ecuadorian Minister.

DEPARTMENT OF STATE,
Washington, June 11, 1910.

MY DEAR MR. MINISTER: I beg to acknowledge the receipt of your note of the 4th instant, congratulating the department on the result of its good offices in promoting peace and American confraternity, and inclosing a copy of a cablegram of the President of Ecuador, in which he states that he gave orders on the 2d instant for the retirement of his troops from the frontier, and that their withdrawal will be accomplished in six days.

Thanking you for your appreciative comments on the department's action and for the agreeable intelligence conveyed in Gen. Alfaro's telegram,

I am, my dear Mr. Carbo, etc.,

P. C. KNOX.

The Ecuadorian Minister to the Secretary of State.

LEGATION OF ECUADOR,
Washington, June 11, 1910.

MR. SECRETARY: As I said to your excellency at our last conference, the American chancellery will be so good as to communicate directly with the chancellery of Ecuador through the most excellent minister of the United States at Quito until my successor arrives, on account of my being about to leave for the country with my family, the summer season having opened.

I here reiterate the high appreciation which I have also expressed to your excellency in which I hold, and history will hold, the wise and telling efforts of your excellency in the cause of the peace of the continent, whereby war between Ecuador and Peru was averted through the friendly mediation of the United States, Brazil, and the Argentine Republic.

This momentous step taken by the three American nations, on the initiative of the United States, will mark an epoch in the diplomatic annals of the New World and bring fame to the mediating Republics and to those which accepted their good offices in the interest of peace and fraternity among the States of this hemisphere.

Highly gratified at my having contributed with all my strength to the success of your excellency's high-minded policy and confident that mediation will be crowned with the best results and bring about an honorable settlement which will put an end to the boundary dispute between Ecuador and Peru, there remains for me to express to your excellency my best thanks for the attentions you have deigned to show me and to ask at the same time that you kindly convey to the President of the Republic, to all the officers of the administration, and particularly to the officers of the State Department, my profound acknowledgment of the favorable reception that has been vouchsafed to me in the discharge of my diplomatic and social duties.

Wishing the fullest prosperity to the American Government and people, etc.,

L. F. CARBO.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 13, 1910.

The Government of Ecuador having withdrawn its troops to Huigra Alausi Guanote Pasaje and other points on line of railways, has been informed that Peru has landed great quantity of heavy artillery at Tumbez and is mounting same into position and otherwise is making strenuous preparations for war. The President of Ecuador and cabinet ministers deeply concerned.

I am expecting prompt action on the part of Ecuador.

Fox.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 14, 1910.

Minister for foreign affairs of Ecuador deplores that the Ecuadorian note of May 24 caused surprise; argues at length for article 6, giving extended extracts from certain opinions. States that obstinacy of Peru demonstrates she is not actuated by a friendly spirit, as is Ecuador. The note charges Peru with not carrying out the first clause of the mediation in that she is maintaining troops at Tumbez and is augmenting her forces in the north as for a war. This assertion is not new to the department, but the indictment is just now made to me for the first time over official signature. Minister for foreign affairs of Ecuador states that Ecuador offers honorable peace to her adversary, who is closing all the doors to a fraternal and decorous conciliation. Ecuadorian minister for foreign affairs expresses gratitude for the good offices. The note concludes by asserting that Ecuador stands firm for its rights and maintains the proposition of accepting no solution that is not based on direct arrangement, refusing no medium of conciliation compatible with national decorum and with the doctrine sustained in the debate since beginning. Repeats Ecuador desires peace and will not accept war unless forced to.

Fox.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 15, 1910.

For repetition to the embassy at Petropolis for its action and for your own. The following telegram is sent to-night to the legations at Lima and Quito. Explain it to the minister for foreign affairs in the hope that he will take similar action. [See telegram of this date to Minister Combs.]

WILSON.

The Acting Secretary of State to Minister Combs.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 15, 1910.

The relative proximity to the frontier of Peruvian troops and even reports scarcely to be credited of their augmentation are not unnaturally causing most regrettable anxiety at Quito. Obviously, the withdrawal should be equal and simultaneous.

The moment your Argentine and Brazilian colleagues may be authorized to join in such action you will urge the Government to which you are accredited promptly and quietly to commence or maintain the withdrawal of its forces—those of Ecuador to the city of Guayaquil and the line of the Guayaquil-Quito Railway and those of Peru south of a line substantially equidistant from the frontier, and you will also urge that both speedily demobilize to a peace footing.

WILSON.

Minister Sherrill to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, June 17, 1910.

Your June 15. Argentine minister for foreign affairs approves your action and is instructing his representatives accordingly.

SHERRILL.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 17, 1910.

Department's June 15 was received June 16. Chargé d'affaires of Brazil immediately asked for instructions on receipt of which will proceed as directed. Under date of June 17 minister for foreign affairs of Ecuador has addressed a note to me as follows:

[The translation.] I have the satisfaction to bring to the knowledge of your excellency for transmission to your Government that Ecuador has complied with the proper exactness with the suggestions of the mediating powers in regard to the withdrawal of the forces from the stations on the frontier overcoming all difficulties. My Government has left in the province of El Oro no armed force, and furthermore has disbanded various reserves battalions belonging to the same territorial section. The brigade Bolivar has been withdrawn to the high plain in the town of Alausi, and the other battalions to the neighboring Provinces of El Oro. The Government of Peru, as my Government had foreseen, has evaded on its part compliance with their obligations, which is the basis of the adjustment proposed by the mediating powers, because it has only withdrawn those neighboring detachments of observation which it had on the line of Zarumilla in Latina up the Mascari River and in some other places on the boundary line, and concentrating in Tumbes, which is only six hours from the provisional frontier. The men withdrawn by Peru, not reaching 200, have been taken from the dividing line to incorporate them into the larger army which is being augmented from day to day, and the attitude of war is maintained. The speedy fortification of Tumbes, the gathering of the elements of war in said place,

¹ Same to Minister Fox at Quito.

the holding of the fleet in Port Pizarro, the distribution of the forces in Sullana Paita and Piura ready to reinforce those of Tumbes in an opportune moment, the declaration of the press of Lima, officially inspired, and the manifestations of the Peruvian authorities, is in direct notable contrast with good faith and the Ecuadorean loyalty, so that it is enough with this difference of proceeding to show clearly intention of the both nations. My Government in assenting to the wishes of the mediating powers, inspired with the purest sentiments of Americanism and humanity, very anxious to find a decorous and expedient solution, has promptly undertaken to comply with the basis for conciliation by the withdrawing of its forces to a long distance from the frontier, suspending mobilization of other military units, and also disbanding its reserve in Santa Rosa and Machala. Republic of Peru was obliged to proceed with the same noble identical tendencies to a sincere reconciliation, and even more, since the mediating powers suggested to us withdrawal of the forces and the suspension of all preparations for war as the first step which we ought to take to reach harmony. My Government does not for a moment desire to undertake any discussion of the conduct which the Government of Peru has observed in this respect, but regrets in all truth that the voice of authority of the mediation had not been properly heard and that this inferred fact signifies perhaps a deliberate intention to make inefficacious a most valuable mediation which has been offered to us. The unequal condition in which, by the exclusive fault of the Government of Peru, both countries remain after the very generous actions undertaken by the conciliatory powers is too manifest, and no one can ignore that all the disadvantage of this inequality falls to Ecuador. The newspapers of Peru which faithfully reflect the idea of the Government, confess to it freely without reserve, so that prolongation of the present conditions will be prejudicial to our rights to a great degree. The newspapers inspired by Peru say that we are in the possession of the territory which Ecuador claims, and that on this account they will take every advantage of augmenting their means of defense during the time Ecuador is using in sterile negotiations. It is hardly to be believed that such confession should be made in the presence of such a respectable and serious mediation, and much more incredible that the facts confirm the declaration to which I refer. In view of what I have exposed I can do no less than express great pleasure with which Ecuador would see a very prompt end of the situation and therefore I am not afraid to suggest the necessity for beginning as soon as possible the conference relating to the best solution of the conflict. Any delay would militate against the humane and noble desires of the mediating powers, because with time the difficulties to reestablish harmony between the discordant nations will increase; and more when it appears that the good will of the Peruvian Republic can not be expected. Ecuador will proceed to send its delegates to the American capital which the powers select, and will do everything possible in behalf of peace, in conformity with national decorum and the declaration she has made in the debate. I am confident that the mediating powers will be pleased to take this note in consideration since they are animated with the most high and generous intentions respecting the prompt and sincere reconciliation of Ecuador and Peru. Accept, etc.

Fox.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, June 17, 1910.

Your June 15, repeated from Buenos Aires. Brazilian minister for foreign affairs says he will telegraph Brazilian legations Lima and Quito to present similar notes respecting further withdrawal of troops and demobilization.

DUDLEY.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, June 19, 1910.

Your instructions, June 15, will be carried out to-day.

COMBS.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, June 20, 1910.

Referring to the department's June 15, minister for foreign affairs of Ecuador, in reply to joint note of myself and Brazilian chargé d'affaires under date of June 20, refers to his note of June 17 regarding action of Ecuador, and says that owing to the unhealthy condition of Guayaquil troops can not be brought there, but they have been distributed in the Provinces of Guyas, the nearest point being 110 kilometers from the provisional frontier, and gives further details as to the distribution along the line of railway of withdrawn troops, which are 370 kilometers from frontier. Again, he insists that Peru is fortifying Tumbez, 30 kilometers from frontier, where it has 5,000 troops of all arms and more some other places in the vicinity. The note continues:

[Translation.] As to the disarmament both countries, my Government accepts the suggestion with pleasure; but having taken account of the failure in exactness with which Peru has proceeded, judges it is necessary to precede this by a covenant by which both countries shall obligate themselves to reduce its war footing to the number prescribed by its laws for a peace footing, a reduction which should be brought about within a time to be carefully chosen, and under moral guarantee of the mediators. Otherwise, clear as is the bad will of Peru, even in the retirement of its forces and the preparation for war, Ecuador can not accept this counsel of the powers without violating the foremost of its duties, that of looking to the security of the State. With this object in view, I again pay homage in the name of Ecuador to the mediating powers, manifesting to them at the same time that I regret not being able to accept unconditionally all of the good counsels, because the conduct of Peru, in this very delicate situation, prevents.

Fox.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, June 21, 1910.

The President of Peru and cabinet of Peru yesterday declared full approval of the declarations of minister for foreign affairs of Peru to the representatives of mediating powers that Peru would fully conform to views of powers respecting retirement and demobilization. Entertaining great confidence in purposes of powers. Peruvian Government seems sincere. Press full of discussion of the effect of mediation, and Peruvian Government subjected to severe criticism. Organ war party suggests army resist demobilization. Think mediating powers would keep Government favorable to mediation by allowing Government to disperse army carefully. It is believed hurried demobilization probably will result in internal disorder. Similar message is sent by Argentine Minister and Chargé d'Affaires of Brazil.

COMBS.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 23, 1910.

The department to-day handed the Argentine and Brazilian chargés a draft protocol designed to be jointly proposed by the

mediating powers at one of the three capitals for signature by the representatives of Ecuador and Peru at that capital for the purpose of the exchange of expressions of regret and for the further purpose of assuring a tranquil and orderly course to the mediation. Both chargés d'affaires were requested to submit the draft for their Government's amendments, suggestions, or approval and for suggestion as to the time and place of proposal. Repeat foregoing to the embassy at Petropolis.

WILSON.

The Secretary of State to the Ecuadorian Minister.

DEPARTMENT OF STATE,
Washington, June 23, 1910.

DEAR MR. MINISTER: I am in receipt of your note of the 11th instant, in which, on account of your being about to leave the city, you request that the department communicate directly with the chancellery of Ecuador through the American minister at Quito until your successor arrives.

Your expression of appreciation of the part taken by the Government of the United States in conjunction with the Governments of Brazil and the Argentine Republic, to bring about, through their friendly mediation, a settlement of the boundary dispute between Ecuador and Peru, has been read with much gratification. This Government will continue to exert its best efforts in conjunction with the other mediators to bring about a settlement which, it is hoped, will be highly honorable and entirely satisfactory both to Ecuador and Peru.

I regret exceedingly that you have been called upon to sever the official relations which have existed for so long a time, and with so much satisfaction on both sides, between you and this Government; and I beg to assure you that the part you have taken in the present boundary dispute between your country and Peru, which has evinced a thorough understanding by you of the situation, coupled with a lofty patriotism to serve your country's best interests, is and always will be highly appreciated in history and by the well-wishers and friends of Ecuador and her people, among whom this department is proud to be included.

In conclusion, I beg you to accept, Mr. Minister, etc.,

P. C. KNOX.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, June 25, 1910.

Minister for foreign affairs of Peru informed me all Peruvian forces have been embarked and retired from Tumbes to-day. Will repeat this to Mr. Fox.

COMBS.

The Colombian Minister to the Secretary of State.

COLOMBIAN LEGATION,
Washington, June, 1910.

MR. SECRETARY: When this legation heard in April last that the boundary questions which unfortunately imperiled the peace of the Republics of Ecuador and Peru and possibly of other South American nations would probably be considered in conference held at this city with the hospitable and friendly participation of the Government of the United States, I had the honor to say to you that the situation of Colombia as riparian State of the Amazonas, owner of vast territories adjoining Ecuador and Peru and more extensive than those in dispute between these two countries, and the existence of public treaties between Colombia and Ecuador and between Colombia and Peru relative to the said territorial rights seemed to demand Colombia's intervention in any agreement or treaty for the purpose of defining those rights or of determining or altering the legal bonds that tie those territories to the respective riparian States. I added that both Ecuador and Peru would undoubtedly be glad if Colombia did attend those conferences, since all the results that were sought could not be attained otherwise, inasmuch as the decisions reached or the conventions concluded would not be binding on Colombia or modify in the least her territorial rights.

You were pleased to take note of that statement so as to take it into consideration at the appropriate time and acquaint me with the result. All this I have reported to the minister of foreign relations of Colombia.

The friendly mediation of the United States having happily progressed and resort to a direct boundary settlement between Ecuador and Peru having, as it seems, been adopted, I have been informed that the minister of the United States at Quito declared to the minister of foreign relations of Ecuador that there was no ground for Colombia's intervention in the arrangements to be made by the first-named two nations.

This declaration, to which the Ecuadorian Government's reply was that in no case would it set aside Colombia's intervention, constrains me respectfully to call the Secretary's attention to its gravity.

I do not here presume to raise the slightest doubt as to the perfect right that both Ecuador and Peru have to discuss their affairs directly and in the manner they deem most expedient. I only make bold to believe, as surely Ecuador did also believe, that the participation of Colombia in the future solutions relative to the great Amazon waterway would be useful, advisable, and paramount, not only to strengthen the fraternal relations which happily bind the countries interested therein, but also as an element of peace on the American Continent for the future. A settlement reached by those nations concerned will derive from its general character a decisive influence on the political and administrative conditions of the territories in dispute and even on their future legal status.

In some way or other Colombia will at the proper time firmly maintain her territorial rights and support them with unquestionable titles emanating from the will of the Spanish monarchs, the public

treaties between Spain and Portugal, and a number of documents conformable to the *Uti-Possidetis* rule of 1810, which has been accepted by all the Spanish-American Republics that for a century have figured in diplomatic proceedings as well as in arbitral arguments. She will produce intact the tradition of law and history, for her foremost care is to retain that reputation for rectitude and honor which, as a celebrated American puts it, is the surest guaranty of any future political preponderance.

I close this note, Mr. Secretary, with equal reliance upon the rectitude of the mediating Powers and the wisdom and friendship of Colombia's sisters and neighbors.

With sentiments, etc.,

F. DE P. BORDA.

The Secretary of State to the Colombian Minister.

No. 7.]

DEPARTMENT OF STATE,
Washington, June 25, 1910.

SIR: I have the honor to acknowledge the receipt, on the 18th instant, of your undated note, in which, referring to your previous statement, giving reasons why, in your opinion, the Government of Colombia should be represented at any conference or conferences held to consider the boundary dispute between Ecuador and Peru, you contend that your Government should participate in any future arrangements affecting the Amazon waterway.

Your representations will be given the department's serious consideration.

Accept, etc.,

P. C. KNOX.

Minister Fox to the Secretary of State.

No. 669.]

AMERICAN LEGATION,
Quito, June 27, 1910.

SIR: I have the honor to inclose herewith copies, with translation, of the message¹ of the President of Ecuador submitted to the extraordinary session of Congress, 1910. This document is important, being an analysis of the position of Ecuador in the present conflict with Peru.

I have, etc.,

WILLIAMS C. FOX.

The Acting Secretary of State to Minister Combs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 5, 1910.

Repeat also to Quito.

For your information and close study I quote the following protocol, which the Department of State and the chargé d'affaires of the Argentine Republic and Brazil will present in the three languages

¹ See p. 430.

probably within a week to the representatives of Ecuador and Peru at Washington, who will be urged on behalf of the mediating powers to sign it. Telegraph how, in your judgment, it will be received by the Government and people of the country to which you are accredited.

WILSON.

PROTOCOL.¹

Acting under the provisions of The Hague Convention for the Pacific Settlement of International Disputes, which provides that—

ARTICLE 2. In case of serious disagreement or dispute, before an appeal to arms the contracting powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers; and

ART. 3. Independently of this recourse, the contracting powers deem it expedient and desirable that one or more powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

And to which, as the most advanced crystallization of the aspiration of the civilized world toward the ideal of peace, the Governments of Ecuador and Peru have solemnly become parties, and acting also in the name of that fraternal spirit of Pan Americanism to which the peoples of Ecuador and Peru are equally devoted, the Governments of the Argentine Republic, the United States of America, and the United States of Brazil having proposed that—

If the Governments of Ecuador and Peru will withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war, and await eventualities, then, in case no award is made or in case serious difficulties shall subsequently arise, the three Governments will undertake a satisfactory solution by mediation.

And having proposed also that—

As for the question of exchange of expressions of regret at the violence done the respective citizens and officials in the country of the other, no one can doubt the sincerity and good intentions of each Government as to those regrettable incidents, and it should be a matter of no difficulty to arrive at a dignified adjustment through the mediating Republics.

The Governments of Ecuador and Peru, actuated by the highest sentiments of civilization, and appreciating the disinterested high motives and the impartial friendship of the mediating powers, deemed it their honorable duty, both to their own interests and to Pan American ideals, at once to accept the tripartite mediation.

Pursuant to this solemn act and upon the earnest recommendation of the mediating powers, both the Governments have now withdrawn their troops and are demobilizing their armies and restoring them to a peace footing, meanwhile postponing any discussion of their ancient boundary dispute, confident that at the proper time mediation, which is the highest form of good offices known to diplomacy and, according to The Hague convention, "consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance," will afford a just and honorable solution of any difficulties which may eventually arise.

The two Governments have thus shown a moderate, conciliatory, and peace-loving disposition completely in accord with the spirit of Pan American relations and the most advanced principles of international comity and forbearance. The mediating powers, highly appreciating the action of Peru and Ecuador in this regard, and impressed with the advisability of now carrying out the second step of the mediation, have urged upon the Governments of Peru and Ecuador the signature of this protocol, designed to allay all irritations and to assure an interval of calm pending the final settlement of a boundary difficulty which both Governments are now pledged to reach by peaceful means through the good offices of the mediating powers.

In this situation the Governments of Ecuador and Peru, responding in the most cordial spirit to the suggestions of the mediating powers, and desiring to remove all present causes of irritation, now address themselves to the regrettable depredations which in the heat of popular passion were inflicted in the two countries upon the respective citizens and representatives.

Therefore the undersigned representatives, duly authorized, mutually express their respective Government's regret of the popular demonstrations which in cities of the two countries were directed against the respective diplomatic or consular offices, citizens, or property; their Government's disapproval of those demonstrations which

¹ See telegram of July 14 from Minister Combs for protocol as formally handed by representatives of mediating countries to ministers of Ecuador and Peru.

received no official encouragement or support, but occurred in the midst of popular excitement and passion, stimulated by false and exaggerated reports current among the masses of the population of both countries. The respective plenipotentiaries further give assurance that each Government highly esteems the noble spirit now shown by the other in taking into account the difficulties experienced on the occasion in question, which were of that character in which Governments not uncommonly find difficulty in maintaining perfect order in the face of national public excitement and misunderstanding.

The respective representatives mutually appreciate the frank and generous expressions made and rejoice to meet on this high plane, seizing this opportunity to express on behalf of their Governments the desire that mutual confidence and cordial sympathy should henceforth exist between the two Governments and peoples.

Therefore the undersigned representatives of Ecuador and Peru, duly authorized by their Governments, sign this protocol in the presence of the representatives of the mediating powers as a mutual testimony of regret and apology in full satisfaction, in honor for the unfortunate occurrences referred to, and as a pledge that the two Governments will proceed to adjudicate in the usual manner and to pay such material damages as shall have been found to have been inflicted upon the respective citizens, and in case of difficulty of agreement upon the amount due to leave to arbitration the fixing of such sum.

The Government of His Majesty the King of Spain has notified the Governments of Peru and Ecuador that His Catholic Majesty is sensible of the agitation of public opinion which, founded on incomplete and erroneous data, has unfortunately arisen in both countries, and, relying upon the amicable tendencies of the parties and taking note of the conciliatory action taken by the mediating powers, so in harmony with the high purpose inspiring the Spanish Government, has expressed the desire that a satisfactory formula may be found in this new situation. The Government of Spain has therefore postponed the award and has expressed a willingness to see the parties reach such solution as they may deem best.

The Governments of Peru and Ecuador, wisely anticipating all eventualities, have accepted a mediation which is to operate upon the boundary question should this postponement be indefinite, or equally should an award be made followed by difficulties, or even in the event of both Governments desiring again to seek a direct settlement through the good offices of the mediating powers; heeding the counsel of the mediating powers which have solemnly represented to the Governments of Ecuador and Peru that there remains no justification for further agitation or concern, undertake through their undersigned representatives to complete within — months from the date hereof the restoration of their forces to a peace footing and to suspend all discussion of the boundary question and to preserve the status quo until such time as the mediation becomes operative according to its terms, engaging at the same time to await any change in the attitude of the Government of Spain until such time as may be eventually fixed by the mediating powers.

The respective Governments further engage to seek approval of this protocol by their Congresses prior to August 1 proximo and to recommend the incorporation in such approval of the provision proposed by the mediating powers whereby any line agreed upon as a result of the operation of mediation as to the boundary if and when it shall later become opportune shall be binding and final as respects both Governments.

In faith whereof the undersigned, duly authorized, etc.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, July 7, 1910.

Minister for foreign affairs of Ecuador by note to-day at noon informed me that a portion of the Peruvian army in six launches have invaded the Ecuadorian Orient by means of Rivers Aguarico and Curaray. The force consists of 500 men under command of Oscar Mavila. They have established themselves and have blockaded the mouth of the Aguarico. Another force of Peruvians is collected at the mouth of the Curaray in Torreal Causina and Mazan, which are Ecuadorian possessions, while other Peruvian launches have gone up

the Curaray in order to blockade or occupy Ecuadorian territory. The names of launches are given.

The minister says that Peru has now broken all her faith and covenants with Ecuador, especially the status quo of the treaty of arbitration of 1887, and thereby insulting the mediating powers. Peru has thus by its own actions declared mediation ineffective by engaging in unforeseen hostilities against a nation which has placed every reliance on international faith. The minister says that therefore in order to guard the honor and the rights of Ecuador he protests with all energy against the unlooked for invasion of Ecuadorian soil.

The minister asks me to bring the facts to the attention of the mediating powers in which Ecuador has the greatest faith and he states at the same time that the responsibility is with Peru in case the negotiations for peace fail on account of actions making resort to arms unavoidable.

Fox.

The Acting Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 8, 1910.

This Government can by no means credit the report of Peruvian military activity, but will at once make inquiries. So inform the Ecuadorian Government. Repeat this telegram to Combs, who will at once investigate and promptly communicate the results to you and to the department in pursuance of the cooperation between the two legations which was some time ago directed.

WILSON.

Minister Fox to the Secretary of State.

No. 679.]

AMERICAN LEGATION,
Quito, July 9, 1910.

SIR: I have the honor, respectfully referring to my cablegram of July 2, to inclose herewith copies of notes, with translations, exchanged between this legation and the minister of foreign relations, with reference to the demobilization of troops in Ecuador and Peru; also copy of the memorandum of a convention which Ecuador would be willing to sign with Peru in the premises.

I have, etc.,

WILLIAMS C. FOX.

[Inclosure 1.]

Minister Fox to the Minister for Foreign Affairs.

No. 200.]

AMERICAN LEGATION,
Quito, June 30, 1910.

MR. MINISTER: I have the honor to inform your excellency that I learn this evening, by cable, from my colleague, Mr. Combs, American minister in Lima, that the minister for foreign affairs of Peru has informed him that nearly 4,000 Peruvian troops had been

mustered out, and that the demobilization would continue. The minister for foreign affairs also stated that the disarmament is being well received by the people of Peru.

Minister Combs also advises me that the ministers of the Argentine Republic and the United States of Brazil, in Lima, hold the opinion that Peru is acting in good faith concerning the demobilization of her forces.

I seize this opportunity to renew, etc.,

WILLIAMS C. FOX.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Minister Fox.

No. 30.]

MINISTRY FOR FOREIGN AFFAIRS,
Quito, July 2, 1910.

EXCELLENCY: I have had the honor to receive your excellency's honored note of June 30, 8 p. m., in which you were pleased to communicate to me that, according to the information which his excellency Mr. Combs had received, 4,000 men had been discharged in Lima, and that the discharging of the Peruvian reserves would continue.

I have already had the satisfaction of stating to the mediating powers in my note of June 20¹ last that the Government of Ecuador accepts with pleasure the reduction of its army to the number provided for by law for time of peace, but that it considers that it is indispensable that Peru should also oblige herself, expressly and previously, to reduce her forces to a peace footing within a fixed period of time and under the moral guaranty of the mediators.

Consequently, I have received instructions from my Government to insist that this requirement be fulfilled before proceeding with the reduction of the Ecuadorian army.

It will not be out of place to state to your excellency that my Government, without calling the attention to the fact and without making any display to the mediating powers, has already discharged many units of its army, but it is certain that these 10,000 volunteers, who have returned to their homes, at the first call, at the first appearance of danger, will return to their barracks. All Ecuadorians capable of bearing arms will hasten to gather and treble or quadruple the army, justly and rightfully, if peace is not soon assured, so that nothing would be gained for a pacific solution between Ecuador and Peru by the mere discharging of their armies, if this act is not inspired by the loyal and sincere desire to arrive at a friendly agreement. And the refusal of Peru to sign the covenant, which I have had previously the honor to propose, for the reduction of our forces will be the most patent proof that she does not seek for concord but desires the breaking up of the mediation.

In this manner I answer your excellency's honored communication and seize, etc.
J. PERALTA.

[Inclosure 3.—Translation.]

MEMORANDUM FROM THE FOREIGN OFFICE.

The minister for foreign affairs sends his compliments to the American minister and has the pleasure to send him, under the same cover, the memorandum for the making of the protocol previous to the discharging of the Ecuadorian and Peruvian forces.

José Peralta seizes this opportunity to renew to his excellency Williams C. Fox the assurances of his most distinguished consideration.

QUITO, July 2, 1910.

[Subinclosure.]

PROTOCOL.²

The protocol, previous to the discharging of the Ecuadorian and Peruvian forces, should be signed on the same day in Quito and in Lima in the following form:

The Governments of Ecuador and Peru, being animated with sentiments of concord and conciliation, have agreed to remove the possibility of an armed conflict in order to arrive at a decorous and equitable agreement for both parties; and considering that the reduction of their respective armies is an efficacious means of obtaining

¹ See telegram of June 20, from Minister Fox to the Secretary of State.

² See also p. 485.

the noble end indicated, the same which the mediating powers pursue, with such benevolence and high-minded views, agree:

ARTICLE 1. Both Governments covenant to discharge their forces in the positive period of fifteen days, counted from this date; reducing them to the footing which they had on December 31, 1909.

ART. 2. Both Governments invoke the moral guaranty of the mediating powers for the exact fulfillment of this compact.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, July 10, 1910.

In reference to department's July 8. Minister for foreign affairs of Peru declares officially 2,000 troops discharged last week; 10,000 discharged to date. Says notwithstanding recent of Ecuador to the department, published by Ecuadorian newspapers and copied here, Peru will continue demobilization and troops will be reduced 7,000 in another week. Since department's July 8, 1 p. m., and above interview, I am in receipt of Mr. Fox, July 7. Will investigate its allegation and report. Repeated Quito.

COMBS.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, July 11, 1910.

In reference to July 7, of Mr. Fox. Called on minister for foreign affairs of Peru this morning in company with minister of the Argentine Republic and Brazilian chargé d'affaires for the purpose of showing the allegations of July 7. Minister for foreign affairs of Peru said he had explained to minister of Ecuador at Lima that allegations were inexact and exaggerated; such truth as they contained referred to action taken before mediation. Orders had been given and reiterated recently for a return to normal conditions in Amazon region, both as to number of troops and location. Minister for foreign affairs of Peru said Government of Peru had refrained from augmenting difficulties of mediators by withholding many well-founded complaints of the conduct of Ecuador and it would continue to forward settlement by self-restraint.

Repeated Quito.

COMBS.

The Acting Secretary of State to Minister Sherrill.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 13, 1910.

Immediately repeat also to the embassy at Petropolis. After consultation with the chargé d'affaires of the Government to which you

¹ Mutatis mutandi: to American legations at Lima and Quito.

are accredited I quote for your appropriate action the following telegram just dispatched to the legation at Santiago:

At the suggestion of the Government of Brazil, concurred in by the Government of the Argentine Republic, Washington having been chosen for the present stage of the mediation negotiations, the chargé d'affaires of the Argentine Republic and of Brazil having similar instructions will to-morrow morning join the Acting Secretary of State in formally presenting to the ministers of Ecuador and Peru the protocol in three languages and in strongly urging its signature and solemn adoption by Peru and Ecuador.

Acting in unison with your Brazilian and Argentine colleagues, who will doubtless have corresponding authority, you will immediately make earnest representations to the Government of Chile in the following sense:

Simultaneously with the inception of the present mediation, the Government of the United States received with the greatest gratification the assurances of the cooperation of Chile which was so fruitful of good results in hastening the conscientious compliance of Ecuador with the condition relating to the withdrawal of forces, etc. In his message to Congress his Excellency the President of Chile again emphasized the friendly and effective support that Chile is in position to give to a project to which from the first it has been a moral party. On the 9th instant the Government of Chile renewed through the Chilean legation at Washington the reiterated pledge of its good will and influence on Ecuador toward the success of the mediation. Placing the highest value upon the promised cooperation, the Government of the United States now feels that the moment has arrived when it can be most successfully applied through instructions to the Chilean legation at Quito to urge upon Ecuador the adoption of the protocol and the cessation of further fruitless and irritating discussion.

You will at the same time hand a copy of the protocol to the minister for foreign affairs.

The foregoing has likewise been communicated to the legations at Lima and Quito for their information, together with the following instruction:

The draft protocol to be presented here to-morrow morning will doubtless be referred to their Governments by telegraph by the ministers of Peru and Ecuador. After consultation with your Argentine and Brazilian colleagues, who, doubtless, have the same instructions, you will unite with them in impressing most earnestly upon the Government to which you are accredited the united desire of the mediating powers that this protocol be adopted at the earliest possible date in order that there may be an end to the present strained relations and that the way may be prepared for the awaiting of eventualities by the people of both countries in an atmosphere of friendliness, calm, and confidence.

WILSON.

The Acting Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 13, 1910.

With the cooperation of your Brazilian and Argentine colleagues you may join in representations to the Government in this sense:

It is essential that the contending powers do not needlessly jeopardize the success of the mediation by recriminations as to the good faith in which disarmament and withdrawal are being carried out, which can only result in greater tension. The mediating powers have received solemn, although general, pledges from the contending powers on these points. You will immediately impress upon the Ecuadorean Government the urgent necessity for greater forbearance and for confidence in the mediating powers which are equally jealous of the reciprocity of military withdrawal and demobilization, have already made representations based on the reported complaints, and are now devising means to make amply precise the steps toward a peace footing.

Quote to Lima.

WILSON.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 14, 1910.

For your information and repetition to the embassy at Petropolis, I quote the following telegram sent yesterday to the legation at Quito: [See quoted portion of telegram of July 13 to Minister Fox.]

WILSON.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, July 14, 1910.

Department's July 13. Brazilian chargé d'affaires not available. I therefore this morning alone conferred with minister for foreign affairs of Ecuador. Minister for foreign affairs of Ecuador agreed to refrain from any further attacks, provided that the arrangements would soon be perfected without restriction. Said that people of Ecuador greatly excited, and that if situation continued the Government would be unable to calm popular mind and did not know when uprising might occur; that a few days since police had dispersed a meeting whose object was to demand war. Repeated Lima.

FOX.

The Acting Secretary of State to Minister Combs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 14, 1910.

The protocol formally handed this morning to the ministers of Peru and Ecuador by the representatives of the mediating Governments differs in the following respects from the text now in your hands.¹

PROTOCOL.

Acting under the provisions of The Hague Convention for the Pacific Settlement of International Disputes, which provides that—

ARTICLE 2. In case of serious disagreement or dispute, before an appeal to arms, the contracting powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers.

ART. 3. Independently of this recourse, the contracting powers deem it expedient and desirable that one or more powers, strangers to the dispute, should, on their own initiative, and, as far as circumstances may allow, offer their good offices or mediation to the states at variance.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

And to which, as the most advanced crystallization of the aspiration of the civilized world toward the ideal of peace, the Governments of Ecuador and Peru have solemnly become parties; and acting also in the name of that fraternal spirit of Pan Americanism to which the peoples of Ecuador and Peru are equally devoted, the Governments

¹ The protocol is repeated in full and necessary changes inserted.

of the Argentine Republic, the United States of America, and the United States of Brazil having proposed that—

If the Governments of Ecuador and Peru will withdraw their forces from the frontier, suspend mobilization and other measures of preparation for war and await eventualities, then in case no award is made or in case serious difficulties shall subsequently arise, the three Governments will undertake a satisfactory solution by mediation.

And having proposed also that—

as for the question of the exchange of expressions of regret at the violence done the respective citizens and officials in the country of the other, no one can doubt the sincerity and good intentions of each government as to those regrettable incidents, and it should be a matter of no difficulty to arrive at a dignified adjustment through the mediating republics.

The Governments of Ecuador and Peru, actuated by the highest sentiments of civilization and appreciating the disinterested high motives and the impartial friendship of the mediating powers, deemed it their honorable duty both to their own interests and to Pan American ideals at once to accept the tripartite mediation.

Pursuant to this solemn act, and upon the earnest recommendation of the mediating powers, both the Governments have now withdrawn their troops and are demobilizing their armies and restoring them to a peace footing, meanwhile postponing any discussion of their ancient boundary dispute, confident that at the proper time mediation, which is the highest form of good offices known to diplomacy, and according to The Hague convention, "consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the states at variance," will afford a just and honorable solution of any difficulties which may eventually arise.

The two Governments have thus shown a moderate, conciliatory, and peace-loving disposition completely in accord with the spirit of Pan American relations and the most advanced principles of international comity and forbearance. The mediating powers, highly appreciating the action of Peru and Ecuador in this regard and impressed with the advisability of now carrying out the second step of the mediation, have urged upon the Governments of Peru and Ecuador the signature of this protocol, designed to allay all irritation and to assure an interval of calm, pending the final settlement of a boundary difficulty which both Governments are now pledged to reach by peaceful means through the good offices of the mediating powers.

In this situation the Governments of Ecuador and Peru, responding in the most cordial spirit to the suggestions of the mediating powers and desiring to remove all present causes of irritation, now address themselves to the regrettable depredations which in the heat of popular passion were inflicted in the two countries upon the respective citizens and representatives.

Therefore the undersigned representatives, duly authorized, mutually express their respective Government's regret of the popular demonstrations which in cities of the two countries were directed against the respective legations and consulates, citizens, or property; their Government's disapproval of those demonstrations, which received no official encouragement or support, but occurred in the midst of popular excitement and passion stimulated by false and exaggerated reports current in both countries. The respective plenipotentiaries further give assurance that each Government highly esteems the noble spirit now shown by the other in taking into account the difficulties experienced on the occasion in question, which were of that character in which governments not uncommonly find difficulty in maintaining perfect order in the face of national public excitement and misunderstanding.

The respective representatives mutually appreciate the frank and generous expressions made and rejoice to meet on this high plane, seizing this opportunity to express on behalf of their Governments the desire that mutual confidence and cordial sympathy should henceforth exist between the two Governments and peoples.

Therefore the undersigned representatives of Ecuador and Peru, duly authorized by their Governments, sign this protocol in the presence of the representatives of the mediating powers as a mutual testimony of regret and apology in full satisfaction in honor for the unfortunate occurrences referred to and as a pledge that the two Governments will proceed to adjudicate in the usual manner and to pay such material damages as shall have been found to have been inflicted upon the respective citizens, and in case of difficulty of agreement upon the amount due to leave to arbitration the fixing of such sum.

The Government of His Majesty the King of Spain has notified the Governments of Peru and Ecuador that his catholic majesty is sensible of the agitation of public opinion which had unfortunately arisen in both countries, and, relying upon the amicable tendencies of the parties and taking note of the conciliatory action taken by the mediating powers, so in harmony with the high purpose inspiring the Spanish Government, has expressed the desire that a satisfactory formula may be found in this new situation. The Government of Spain has therefore postponed the award and has expressed a willingness to see the parties reach such solution as they may deem best.

The Governments of Peru and Ecuador, wisely anticipating all eventualities, have accepted a mediation which is to operate upon the boundary question should this postponement be indefinite, or equally should an award be made followed by difficulties, or even in the event of both Governments desiring again to seek a direct settlement through the good offices of the mediating powers. Heeding the counsel of the mediating powers which have solemnly represented to the Governments of Ecuador and Peru that there remains no justification for further agitation or concern, undertake, through their undersigned representatives, to complete within four months from the date hereof the restoration of their forces to a peace footing and to suspend all discussion of the boundary question and to preserve the status quo until such time as the mediation becomes operative according to its terms, engaging at the same time to await any change in the attitude of the Government of Spain until such time as may be eventually fixed by the mediating powers in consultation with the said Government.

The respective Governments further engage to seek approval of this protocol by their Congresses prior to September 1, proximo, and to recommend the incorporation in such approval of the provision proposed by the mediating powers whereby any boundary line agreed upon as a result of the operation of this mediation, if and when it shall later become opportune, shall be binding and final as respects both Governments.

In faith whereof the undersigned, duly authorized, etc.

Repeat to Quito and Santiago.

WILSON.

Chargé Pierrepont to the Secretary of State.

[Telegram—Extract.]

AMERICAN LEGATION,
Santiago, July 14, 1910.

Department's July 13. Argentine and Brazilian ministers have not yet received instructions. We hope to be able to act jointly to-morrow.

PIERREPONT.

The Acting Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 15, 1910.

Your July 14. The perfection of arrangements desired by the minister for foreign affairs is now dependent upon his broad-minded conciliatory action, equally with similar action on the part of the Government of Peru. You will not fail to make clear that the mediating Governments can not doubt that their hope is well founded; that the Governments of Peru and Ecuador will find in this protocol so nice a balance of justice and so scrupulous a regard for the interests of both Governments as to constitute a happy solution of the difficulties at present existing between the two countries.

Repeat to Lima for corresponding action.

WILSON.

The Acting Secretary of State to Minister Ide.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 15, 1910.

I quote for your information the protocol to-day formally presented and proposed to the ministers of Ecuador and Peru by the representatives of the mediating powers. This protocol has been telegraphed to the Governments of Ecuador and Peru, whose answer

is anticipated within a few days. The entire course of the mediation has been frankly and fully explained to the Spanish minister here, who has been handed copies of all important documents bearing upon the matter. (Quote protocol as amended. See telegram of July 14 to Minister Combs.)

WILSON.

Minister Fox to the Secretary of State.¹

[Telegram.]

AMERICAN LEGATION,
Quito, July 18, 1910.

Chargé d'Affaires of Brazil, without instructions, nevertheless accompanied me to conference to which we were invited by minister for foreign affairs of Ecuador to-day. Protocol read and discussed. I submitted orally and also in the form of aide-mémoire reasons why both countries should adopt it.

Minister for foreign affairs of Ecuador agreed to accept all that part in reference to mutual expressions of regret for depredations committed, etc. Regarding other part minister said that his Government could not separate itself from the doctrine outlined in the note of May 24th and in subsequent notes relative to urging for a direct arrangement for which it has perfect right in conformity with article 6 of the treaty of arbitration of 1887, since no decision has yet been pronounced. He added that his Government has accepted the mediation precisely because it judged it to be a high-minded and efficacious means for negotiations, aside from deference to and special appreciation of the mediating powers. Concerning that which relates to awaiting any change of attitude in the Spanish arbitrator and the actuation of the mediators in case of difficulties arising from award, should it be pronounced, the minister stated that his Government and the whole country can not accept postponement so indefinite; moreover, the Ecuadorian ministers in Madrid had stated to the minister of state that in case the direct arrangement was unsuccessful the arbitration proceedings could not be continued without the joint petition of both litigants; a declaration which he did not believe it was possible to revoke. He stated also that in case of discussion under direct arrangement he reiterated that which he had solicited before respecting the including of Colombia, since without such inclusion peace in the oriental territory could not be cemented, because Ecuador and Colombia, according to solemn treaties now in force, form both together a single party in the defense of their rights in the Amazon Basin. The minister closed his remarks stating that his Government was deeply impressed by the impartiality with which the mediating powers proceeded, and that it was very regrettable that it can not accept the protocol, in all its parts, on account of the reasons stated.

The minister stated further that neither the Congress nor the people would accept the protocol; that to do so would mean overthrow of the Government. The minister strenuously objected to the whole of the paragraph in which "await any change in the attitude of the Government of Spain, etc.," is referred to.

Fox.

¹ Repeated Lima.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, July 18, 1910.

Had an interview with President of Peru and minister for foreign affairs of Peru at their request this afternoon, to explain the effect of congressional action required in protocol. Convinced them such action wise and necessary. Both undertook unequivocal and hearty approval and support of protocol.

COMBS.

Chargé Pierrepont to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Santiago, July 19, 1910.

Department's July 18. At the request of the Chilean minister for foreign affairs I to-day handed to him a copy of the protocol. The Argentine and Brazilian ministers not yet having instructions, I ventured the private opinion that he could exercise a very salutary influence on Ecuador. This brought forth the renewed assurance of cooperation and of desire to promote peace.

PIERREPONT.

*The Acting Secretary of State to the Argentine Chargé.¹*DEPARTMENT OF STATE,
Washington, July 21, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: Our diplomatic representatives in Quito, Lima, and Santiago have promptly carried out the instructions this department sent them after our consultations of last week. Our minister at Lima, Mr. Combs, telegraphed the department July 15 that President Leguia and Minister Porras had that day declared confidentially that they approved the protocol, of which Mr. Combs had just handed them the English text. The Spanish text had not yet been received from Mr. Pardo.

Mr. Combs further telegraphed on the 18th of July that he had that day had another interview with the Peruvian President and minister for foreign affairs, at which the effect of the congressional action referred to in the last part of the protocol was discussed and explained. The President and minister for foreign affairs came to the conclusion that this part of the protocol was necessary, and assured Mr. Combs that the whole protocol would have their hearty support.

Mr. Freyre showed us yesterday, July 20, a translation of a telegram Mr. Pardo had received recently from Minister Porras, in which he instructed the former to inquire the opinion of the Department of State as to whether the Spanish text of the protocol using the words "se acuerde" should be construed to mean a boundary line agreed upon between the two parties or a boundary line indicated by the mediators in case they do indicate one.

¹ Mutatis mutandis to the Spanish minister and the Brazilian chargé.

The English text seems to me perfectly clear and, so far as our knowledge of Spanish in the department goes, we can not see that there is any serious ambiguity in the Spanish version.

From Ecuador our minister, Mr. Fox, sends a discouraging telegram dated July 18. The representatives of the three countries had had a conference that day with the minister for foreign affairs at which the protocol was discussed. The latter agreed to accept the part with reference to mutual expressions of regret for the depredations, but said as to the rest of the protocol his Government could not recede from the position formerly outlined in notes to Mr. Fox, in which Ecuador insisted on the direct arrangement of the boundary in conformity with article 6 of the arbitration treaty. He said that his Government and country could not accept a postponement so indefinite as that implied in the provision agreeing to await a change of attitude on the part of the Spanish arbitrator, and that Ecuador could not recede from the declaration made by her representatives in Madrid, to the effect that the arbitration could not be continued except on the joint petition of both litigants in case a direct arrangement should prove unsuccessful. He also insisted that Colombia be included.

In President Alfaro's message to Congress of June 1 he said explicitly and unconditionally that Ecuador had accepted the offer of mediation, only adding that Ecuador had suggested to the mediating powers that she deemed a direct arrangement advisable. The present position of the Ecuadorean Government, as reported by Mr. Fox, indicates a more uncompromising and aggressive attitude, and that Ecuador only accepts the continuation of the mediation on condition that it be modified, and that the proposed protocol be changed so as to differ virtually from the terms of the original offer of May 12.

If your instructions enable you to agree with me, I suggest that the best course at present is for the mediating powers to continue to bring to bear all possible pressure for the adoption by Ecuador of the protocol as it stands, that they allow ample time for the full effect of such pressure to operate at Quito, and that only if ultimately convinced that the success of this effort is impossible we then consult as to what modification might be devised, acquiesced in, and supported by the mediating powers.

I am sending a note similar to this one to Mr. Lima and also to Mr. Riaño, the latter in pursuance of the decision reached by the three of us last week, to the effect that it is our duty, in the present circumstances, to comply with the request of the Spanish minister that he be kept fully informed of a negotiation with which his Government is so intimately connected.

I am, etc.,

HUNTINGTON WILSON.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, July 27, 1910.

President of Ecuador invited minister for foreign affairs of Ecuador, Chilean minister, Brazilian minister, and myself to a conference this afternoon. President of Ecuador reviewed the situation historically

since 1900, when he said that he first learned that the arbitration award was certain to be against Ecuador. He said that in 1901 Ecuador proposed to submit the question to the Argentine Republic, Peru not accepting. President of Ecuador said that this showed that he was not against arbitration, but on the contrary in favor of it; that Ecuador, however, never could submit to a decision by the King of Spain under all the circumstances. He closed saying that the Brazilian minister and I would receive a note transmitting a memorandum of proposed modification of the protocol which he begged us to transmit, and he sincerely hoped that the mediating powers would give it favorable consideration. This memorandum will be transmitted by cable to the department to-morrow.

Fox.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, July 28, 1910.

Referring to my July 27. The note of the minister for foreign affairs of Ecuador reads in part as follows:

Desiring to cooperate efficaciously in the generous labor of the mediating powers and in acceding to the repeated suggestions of Chile, a nation with which we are cordially united by bonds of friendship, my Government has given to me the honorable charge to place in your excellency's hands the accompanying memorandum of modifications of the projected protocol which might be substituted for the last three paragraphs, etc.

The memorandum, a translation of which follows:

And, finally, His Majesty the King of Spain having notified the Governments of Ecuador and Peru that, guided by his high intentions of maintaining peace between the two countries, and in order to give them the time to settle their differences in a friendly and direct manner under the auspices of the mediating powers, he had postponed the rendering of his decision without fixing a date when such postponement should come to an end; the undersigned plenipotentiaries duly recognize the high and noble sentiments which have inspired the Government of Spain and beg to offer for such an opportune and well-timed measure the homage of their sincere gratitude. And whereas the arbitration proceedings are postponed for an indefinite period and it is not expedient for either of the countries to maintain the present state of affairs, and having both accepted good offices of the three mediating powers precisely with the object of looking for an amicable and honorable solution, the undersigned representatives of Ecuador and Peru have agreed to commence direct negotiations under the moral influence of mediating States in order to try to come to an agreement by which, and taking into consideration the respective bases of justice and mutual advantage, the line of demarcation between the two nations may be fixed. And as the object of the tripartite mediation is similar to that of the two Governments, viz, the reestablishment of a lasting and unalterable peace between the nations bordering on the Amazon Basin, and bearing also in mind the existing treaties between Ecuador and Colombia, they hereby agree to invite the latter nation to take part jointly with Ecuador in the discussion of this agreement. The mediating powers will exercise amply their good and high offices in order that the conferences to be held upon the direct negotiations will produce satisfactory and definite results; they will also designate the American Capital, where the commissioners of the contending countries will meet, the suitable date when such meeting and conferences will take place, the number of delegates, as well as the formalities and necessary proceedings appertaining to the negotiations. Governments of Ecuador and Peru hereby bind themselves to submit the present protocol for the approval of their respective Congresses at their next session and to communicate such approval to the mediating powers as soon as the same is granted. During the course of the negotiations and until they are concluded the two contracting Governments agree to respect strictly the status quo in accordance with the preexisting treaties between the two Republics.

Fox.

The Acting Secretary of State to Chargé Pierrepont.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 28, 1910.

Minister at Quito reports that the Government of Ecuador is preparing radical changes in protocol suggested by mediators, especially as regards last paragraph. This Government earnestly hopes that Chilean minister for foreign affairs will continue to exercise his valued influence with the Government of Ecuador to dissuade it from assuming an attitude which would inevitably render more difficult the pacific efforts of Chile, the United States, the Argentine Republic, and Brazil.

WILSON.

*The Acting Secretary of State to the Argentine Chargé.¹*DEPARTMENT OF STATE,
Washington, July 28, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: Inasmuch as at the suggestion of the Brazilian Government, with the acquiescence of the Government of the Argentine Republic, it was deemed best as a matter of convenience that the present phase of the negotiations connected with the tripartite mediation should be centralized in this Capital, the duty of seeking the adoption of the protocol presented on behalf of the three Governments has devolved upon yourself, your Brazilian colleague, and the department, it is thus very necessary that we should be in close touch and mutually fully informed in order that through you I may know the views of your Government as they develop, and in order that your Government, in return, may be, through you, fully informed of the views of the United States. I am therefore depending absolutely upon you to these ends.

You will recall that on the occasion of our conference at Washington, when we formally presented the protocol to the representatives of Ecuador and Peru on behalf of the three mediating powers, I read you the instructions the department was then sending to its representatives at Quito, Lima, and Santiago. You will recall that the general purport of those instructions was as follows:

The representatives of the United States of America were to urge the adoption of the protocol upon the foreign offices of Ecuador and Peru, and were to urge the Government of Chile to work to the same end through the special influence of its legation at Quito. The action upon the instruction sent was, you will recall, contingent upon the receipt of similar instruction by the representatives of your Government and of Brazil. I had understood that you and Mr. Lima, in reporting to your Governments upon our last conference, would also make clear the above understanding. I found, however, that I failed to make myself entirely understood upon this point. Discovering this, the cooperation upon which our action depended was promptly secured through appropriate communication to your Government through the legation at Buenos Aires. Since that time my letter of July 21 will have informed you of the situation as known to the department up to that date.

¹ Mutatis Mutandis to the Brazilian chargé.

Since July 21 I am informed that as a result of cooperative action at Santiago the Chilean minister for foreign affairs, after reading the draft protocol, instructed the Chilean minister at Quito that he saw no objection to the protocol and that he (the minister) was to urge the Government of Ecuador to accept it. A telegram received to-day from our legation at Quito now states confidentially that the Ecuadorean Government is preparing radical changes in the draft, embodying their objections as previously stated, presumably expressing their objection to the provision as to any contingency of a Spanish award.

This situation, together with the resignation of the prime minister and the minister for foreign affairs of Peru, apparently the only members of the Peruvian Cabinet who were not wholly in favor of the protocol, is reported, as is also the fact that the cabinet is being reorganized and is likely to be unanimously in favor of the protocol.

I inclose a copy of a note I have sent the Spanish minister in pursuance of our agreement that he should be informed of any developments in the situation so closely affecting his Government.

I am, etc.,

HUNTINGTON WILSON.

P. S.—I beg to inclose for your further information a paraphrase of a telegram just received from Mr. Fox, our minister at Quito.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, July 29, 1910.

The President's message to Congress yesterday refers to Washington protocol as in harmony with mediation, and declares absolute confidence in mediator. I have no doubt new cabinet when formed will accept protocol.

COMBS.

The Argentine Chargé to the Acting Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Manchester, Mass., July 29, 1910.

MY DEAR MR. SECRETARY: I have the honor to transmit herewith the dispatch which I have just received from the minister of foreign relations:

ARGENTINE LEGATION, Washington:

Referring to your telegram of the 22d, I transmit the reply received from the Argentine Legation in Chile, as follows:

Carrying out instructions and in conjunction with the representatives of the United States of North America and of Brazil, we recommended to the Chilean Government that it should use its influence with Ecuador in favor of the tripartite mediation. As I indicated in the telegram of July 13, the present administration is well disposed to lend its aid toward pacification, as it has already shown, according to the statements of the chancellor. He says that five days ago the chargé d'affaires of North America gave him a copy of the protocol presented to Peru and Ecuador and that, after reading it, he telegraphed to the Chilean minister in Quito that he should advise its acceptance by the Government of Ecuador, adding that in view of the terms of the document opposition was inexplicable. It is stated that no reply to this telegram has been received.

(Signed)

ANADÓN, Argentine Minister.

It is known that the Peruvian minister resigned as an immediate consequence of the discussions concerning the protocol.

PLAZA.

Hoping that you will be so good as to keep me informed as to the progress of these negotiations, and tendering my services for the transmission to my Government of such statements as you regard suitable, I take pleasure in renewing the expression of my distinguished consideration and high personal esteem.

JACINTO L. VILLEGAS.

Minister Combs to the Secretary of State.

No. 382.]

AMERICAN LEGATION,
Lima, Peru, August 1, 1910.

SIR: I have the honor to report that the President has as yet been unable to form a satisfactory new cabinet.

I inclose a copy, with translation, of that part of the President's message treating of the mediation.

The political situation is less complex and threatening than it was a week ago.

I have, etc.,

LESLIE COMBS.

[Inclosure.—Translation.]

Message of the President of Peru, July 28, 1910.

EXTRACT.

It was under these circumstances that the offer of mediation was made by the Governments of the Argentine Republic, Brazil, and the United States. This event of exceptional importance postponed the possibility of a conflict. Both Governments accepted, and the situation and the eventualities contemplated in the offer were left to the mediators, who began, and who are actually performing, their noble task with a firm resolution, inspired by a feeling of justice which merits the deepest respect. I myself at this time interpret the opinion of Peru in publicly reiterating our gratitude for the high motives which impelled them to serve. These motives lead to the maintenance of peace, which should not be perturbed owing to the anticipations of an arbitration solemnly entered into, and mean the realization of an ideal of solidarity based upon justice. * * * Our confidence in the mediators is absolute. Apart from the object which they pursue, the proper prestige of the respectable Governments which are taking part in the affair, the precedent that they are going to establish, and the knowledge that has been acquired of the matter in question should be considered. It is on this account that we have watched with sympathy, and without any misgiving, the steps followed by the mediation up to the present time, and we bowed without any reservation and with the greatest of deference to the indications which they (the mediators) made to us to withdraw our forces from the frontier and to reduce their number to a peace footing. This last measure is proof of the security which the mediators entertain respecting the success of their negotiations, a security which no obstacle has been able to upset. * * * This firmness is understood owing to the conviction of the three Governments of the invincible moral force which they exercise in having adopted, as the foundation of their action, impartiality and the necessity for establishing an American tradition of respect for order, for right, and for the considerations for which nations mutually owe to each other. Therefore, it is not venturesome to anticipate from now on that the result of the mediation will be successful and that the actual state of peace will be permanent in the future, as a consequence of the force of example having been preferred to weight of power. * * * In the protocol proposed at Washington on the 13th of the present month the future course of the mediation is explained in harmony with its bases, indicating the necessary guaranty for its execution.

The Acting Secretary of State to the Argentine Chargé.

DEPARTMENT OF STATE,
Washington, August 8, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: I take pleasure in acknowledging the receipt of your note of the 29th ultimo, in which you quote a dispatch which you received from the minister of foreign relations of your Government containing the gratifying statement that the minister of the Argentine Republic at Santiago, Chile, joined the representatives of the United States and Brazil in recommending to the Government of Chile that it use its influence with Ecuador in favor of the tripartite mediation and that the Chilean minister at Quito has been instructed to advise the Government of Ecuador to accept the protocol.

I am, etc.,

HUNTINGTON WILSON.

The Acting Secretary of State to Minister Fox.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 10, 1910.

Your August 5. When your colleagues are authorized to do likewise, you will again seek an opportunity discreetly but forcibly to impress upon the President and Government of Ecuador the views of this Government as regards the present attitude of Ecuador toward the tripartite mediation. You will make clear that the failure of Ecuador to show a conciliatory disposition and to take the steps recommended which provide honorable means to a friendly adjustment of its difficulties with Peru can only be regarded by this Government as an evidence of (1) a disinclination to reach a peaceful and honorable solution of the boundary difficulty or (2) lack of confidence in the mediating powers. The representatives of Brazil and Argentina here have been requested to ask that similar instructions be sent by their Governments to representatives at Quito.

Repeat to the legation at Lima for its information.

WILSON.

The Acting Secretary of State to Minister Sherrill.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 10, 1910.

Repeat to Petropolis and Santiago, for information, the following telegram which has been sent to the legation at Quito. [Supra.]

WILSON.

The Acting Secretary of State to the Argentine Chargé.¹

DEPARTMENT OF STATE,
Washington, August 10, 1910.

MY DEAR MR. CHARGE D'AFFAIRES: Referring to previous correspondence in regard to the tripartite mediation between Ecuador and Peru, I beg to inclose herewith, for your confidential information, a paraphrase of a telegram received on the 6th instant from Mr. Fox, our minister to Quito, reporting discouraging comments appearing in the Government newspapers in regard to the mediation. The facts reported in this telegram, together with the situation already known to the mediating powers, render it desirable, in the opinion of the department, that further joint representations be made at Quito to make clear the views of the mediating Governments as to the present attitude of the Ecuadorian Government in regard to the mediation. I am to-day sending Mr. Fox a telegram, of which I inclose a paraphrase, directing him, when his Argentine and Brazilian colleagues shall have been authorized to do likewise, to make clear to the Government of Ecuador that its failure to show a conciliatory disposition and to take the steps recommended, which provide honorable means to a friendly adjustment of its difficulties with Peru, can only be regarded by this Government as an evidence of (1) a disinclination to reach a peaceful and honorable solution of the boundary difficulty or (2) lack of confidence in the mediating powers.

I beg you to be good enough to communicate to your Government the views of the department on this matter and its suggestion that similar instructions be sent to your representative at Quito.

I have seen Mr. Freyre and asked him to explain to the Peruvian minister the situation as we find it to-day. The mere fact that the Government of Ecuador demurs to the reference to the Spanish award and raises the question of Colombian inclusion, which seems at this date both premature and impracticable, is undoubtedly well understood at Lima, and I explained to Mr. Freyre that until a formal reply comes to us through Mr. Arizaga, to whom the draft protocol was handed, we could scarcely consider any official rejoinder due Ecuador from us.

I am, etc.,

HUNTINGTON WILSON.

Minister Combs to the Secretary of State.

No. 384.]

AMERICAN LEGATION,
Lima, August 11, 1910.

SIR: I have the honor to report a much better attitude, both on the part of the politicians and the public, toward the Washington protocol than was the case 10 days ago, owing to its terms being more generally and better understood.

Mr. Porras, the minister for foreign affairs, has been summoned before Congress, in secret session, for interpolation, and although the Congress is extremely hostile to him he has been able to defend his course respecting both the mediation and the Washington protocol with great success. The interpolation has extended over several days.

¹ Mutatis mutandis to the Brazilian chargé.

I am inclined now to think that the Congress will, within the time suggested by the protocol, ratify its provisions.

I have, etc.,

LESLIE COMBS.

The Argentine Chargé to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Manchester, Mass., August 12, 1910.

MY DEAR MR. SECRETARY: Referring to my note of yesterday, it becomes my duty to transcribe herein below the telegraphic dispatch I have just received from the most excellent minister of foreign relations. It reads as follows:

In accordance with the contents of your telegram of this date, this ministry has sent instructions to the Argentine minister to Ecuador energetically to make the representations therein suggested.

It affords me pleasure to renew to you, etc.,

JACINTO L. VILLEGAS.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, August 13, 1910.

Ecuadorian Congress convened yesterday afternoon. The message of the President of Ecuador read, a translation of which follows in part:

The hostile attitude of the Republic of Peru, the concentration of her army in the frontier department of Piura, the pertinacity with which she has refused all means of conciliation, show clearly her decided purpose to protect by force her unfaithful proceedings in Madrid. War was imminent, but the Governments of Washington, Rio de Janeiro, and Buenos Aires offered in a spontaneous manner their highly esteemed mediation which has come to upset the warlike and vicious plans of our gratuitous enemies.

Second. The mediating powers have obtained the retirement of the troops encamped on the frontier, thus avoiding an imminent outbreak of hostilities, but it is regrettable to announce to you that as regards the principal question, the very cause of the disagreement—the way to settle the boundary question—the mediating Governments as yet have not been able to arrive at any practical and definite conclusion; for Peru persists in refusing to comply with article 6 of the treaty of arbitration, 1887. Ecuador accepted mediation upon that basis, and it is not possible for her to separate in any manner from the conditions stated in the note of May 24 last, without causing damages which may be irreparable for the nation.

Third. The unfruitfulness of my labor has given me the conviction that Peru will not withdraw from her pretensions to despoil us of territories which have never been in dispute, and which we never imagined we were going to lose, by an unfit decision contrary to the most elementary principles of justice. I refer to the project of the decision, now known to all the world, in which the overstepping of the limits by the arbitrator is clear and the ignorance of our indisputable rights is manifest, so that the opposition of the people of Ecuador to the above-mentioned arbitration is a justified public opinion.

Fourth. The Government of Peru, not content with sustaining at any risk her unjust pretensions to our territory, has used all determination to turn and pervert the noblest sentiments of the Peruvian people, instilling into them deep and implacable hate against Ecuador and making them desire war as a necessary means of preserving national honor.

Fifth. Nevertheless, I desire that that Government recognize the depth of the abyss to which it is dragging two peoples of identical origin and equal aspirations, and in order that at last it may conform itself to repairing the immense injury which it has caused us and render homage of the loss of reason and justice, even though it does this for its own purposes. But if such blindness finally produces its dire result, if war should break out in spite of our efforts to avoid it, I have full confidence that the Ecuadorian army, the personification of outraged right and justice, will conquer all resistance and will obtain by the force of arms that which is now refused to us by the most pacific and conciliatory means.

Sixth. Ecuador will have many generous auxiliaries, should the case arise, in the work of vindication which ridiculed justice and good faith demand from us.

Seventh. The union and cordiality of the peoples which formed the Grand Colombia of the Liberators has been shown the world. It appears, therefore, to be the most opportune moment to realize the vast and useful idea of the Colombian Confederation. I ask you to closely study this great problem, and, if you think as I do, to give me due authorization to negotiate the respective preliminaries with the Governments at Caracas and Bogota.

Eighth. The Government of Chile, in our present conflict with Peru, has worked with interest in order that we should arrive at pacific and satisfactory solution.

Abbreviated report sent to Lima.

Fox.

The Acting Secretary of State to the Brazilian Chargé.¹

DEPARTMENT OF STATE,
Washington, August 20, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: Continuing the subject of my note to you of August 10, in regard to the tripartite mediation between Ecuador and Peru, I beg to inform you that on August 11 our minister at Quito telegraphed that he had received the department's telegram to him, of which I inclosed a paraphrase in my last note to you, and that he had had a conference with the Brazilian minister, who had not yet received instructions but would telegraph for them. The Brazilian minister at Quito said that the President of the Argentine Republic would reach Rio de Janeiro on the 19th of August and would probably have a full conference with Baron Rio Branco, and that he (the Brazilian minister at Quito) agreed with Mr. Fox in believing that certain foreign influences at Quito had hitherto been largely responsible for the situation at that capital.

On August 12 our ambassador at Petropolis acknowledged the receipt of the department's telegram informing him of the terms of our telegram of August 10 to Mr. Fox, and stated that he had seen Baron Rio Branco, who informed him that the same instruction would be telegraphed to the Brazilian representative at Quito. However, such instruction had not been received by the latter by August 19, according to Mr. Fox. It appears that the Argentine representative to Ecuador had received his instruction by that time.

¹ Same *mutatis mutandis* to the Spanish chargé and the Argentine chargé.

On August 13 Mr. Fox telegraphed that the Ecuadorian Congress had convened on the afternoon of the 12th, that President Alfaro had read a very warlike message, and that the Brazilian minister had telegraphed his Government as follows:

Presidential message presented by Ecuadorian minister of interior with very warlike speech. Although message contains great encomium for the King of Spain personally, it is most aggressive against Peru and the Spanish council of state. It also appears to me that it is not very complimentary to mediating powers. Last night invited by the American minister to his legation. It was agreed to between us that to-day at the same hour we would send to our respective Governments the same paragraphs which most attract our attention. The message contains 18 paragraphs on the subject of the political situation, of which we send 8.

Minister Fox adds that he concurs with Minister Moreira. I inclose for your information the eight paragraphs of President Alfaro's message referred to.

At Beverly, in the afternoon of August 6, the recalcitrant attitude of Ecuador toward accepting the protocol suggested by the mediating powers was the subject of conversation between President Taft, President Montt, and the Secretary of State. President Montt told the Chilean chargé d'affaires of this conversation, and the latter has informed the department that on August 8 he sent a telegram to his Government, stating the earnest desire of President Taft and the representatives of the mediating powers that Chile use her influence directly with Ecuador to secure the latter's signature of the proposed protocol.

The Peruvian minister is in Washington to-day. He confirms the news of his Government's willingness to sign the proposed protocol.

Mr. Arizaga formally presented his letters of credence to the President at Beverly on August 5 and returned to this capital a week ago, after having had a consultation with the minister of Colombia in New York. He called to-day at the department and stated that he had received no instructions from his Government but had telegraphed for instructions. He also stated that he was not aware of President Alfaro's recent warlike message to the Ecuadorian Congress.

In conclusion, allow me to request your kind cooperation in bringing to your Government's attention the department's telegram of the 20th instant to our minister at Lima, paraphrased above, so that similar instructions may be sent to the representative of Brazil at that capital.

I am sending a note similar to this one to Mr. Villegas and also a copy to Mr. Riaño.

I am, etc.,

HUNTINGTON WILSON.

The Argentine Chargé to the Secretary of State.

[Translation.]

ARGENTINE LEGATION,
Manchester, August 27, 1910.

MY DEAR MR. SECRETARY: I have the pleasure of acknowledging the receipt of your obliging communication of the 20th instant in which you were pleased to transmit to me the information received by your department since the 10th of August with regard to the mediation of the United States, Brazil, and the Argentine Republic in the dispute between Peru and Ecuador.

Immediately upon reading its contents I communicated with my Government in accordance with the desire expressed in the said note, and I received to-day from the minister of foreign relations the telegram which I have the pleasure to bring to your knowledge. It reads as follows:

Instructions referred to in your telegram of August 22 have been duly issued.
(Signed) CARLOS RODRIGUEZ LARRETA.

I take pleasure, etc.,

JACINTO L. VILLEGAS.

*The Ecuadorian Minister to the Secretary of State, the Brazilian Chargé,
and the Argentine Chargé.*

[Translation.]

LEGATION OF ECUADOR,
Washington, August 27, 1910.

HONORABLE SIRS: The draft protocol proposed by the mediating powers in the dispute between the Republics of Ecuador and Peru has been exhaustively considered by my Government, and I believe it pertinent to indicate to the honorable representatives of the friendly Governments what the attitude of the Ecuador foreign office is toward so important a document.

As stated in the official note of May 24 last, addressed by the foreign office of Ecuador to the esteemed representatives of the mediating powers in Quito, my Government desires that the generous offices of the illustrious Governments of the United States, Brazil, and Argentina in the Peru-Ecuador dispute be directed solely to the end of procuring direct negotiation in the boundary controversy, which negotiation it would be desirable to enter into as soon as possible without awaiting further developments of any sort. Any delay would be inexpedient for Ecuador, as it would prolong its present bad status, and my Government further deems it inadvisable, since it does not desire that the benevolent mediation of the friendly powers should be dependent upon any future happening nor be involved in any act other than a direct and conciliatory settlement of the frontier dispute with Peru. The arbitral procedure pending before His Majesty, the King of Spain, has been suspended, and it has been suspended for the very reason of the desirability that the parties should try direct negotiation in conformity with the right reserved therefor in the arbitral convention of 1887; the direct settlement could therefore be procured without any obstacle whatever connected with the award of the Spanish sovereign and with advantage to the nations in conflict without awaiting an event which seems excluded by the very character and antecedents of the conciliatory proceedings now under way.

Ecuador, therefore, would regard as a step most adapted to the desired result and as most friendly on the part of the mediating Governments any effective effort toward procuring such direct settlement, with the suggestion that the said conferences be entered into within a short and prudent space of time, under the valued auspices of the American Government in its capital or under any of the other friendly Governments, and in a place to be designated.

My Government feels a lively interest in such an arrangement because not otherwise can or will disappear the principal cause of the present dispute which has occasioned Ecuador so many and such grave injuries, and whose foreign office considers, as stated in an official communication addressed to his excellency, Mr. Fox, the American minister in Quito, that any postponement will only put off the war for a few months longer—that is to say, until the desired conciliation shall have encountered greater odium and more numerous obstacles.

In this direct negotiation of which I have been speaking it is the opinion of my Government that a representative of Colombia should participate, as was urged expressly by the foreign office of Ecuador in the note of May 24 last, above referred to, as has also been definitely requested by the Government of Colombia in stating through its minister at this capital that it would regard as without effect, so far as Colombia was concerned, any settlement in which the latter was eliminated for the conclusion of a contest between Ecuador and Peru in the question of the Amazon region. Were the question under consideration discussed and settled between Colombia, Ecuador, and Peru, all occasion of discord between the three nations would forever disappear, and, the peace of South America being thus assured, the three Governments would dedicate themselves, in their respective spheres, to the work of civilization demanded by these vast areas, the most fertile and rich of our southern America.

Such an inexpressible benefit would be owing to the exquisite foresight and lofty discernment of the mediating powers, and Ecuador, for its part, cherishes the hope that it may be generously and effectively brought to pass; the opening of the century being thus consecrated to an event to be most worthily recorded in American history—the pacification of a continent through the wisdom and the lofty fraternal spirit of three illustrious nations.

As to the previous matter of mutual and reciprocal expressions of regret for the unfortunate occurrences in Lima, Guayaquil, and Quito in the early part of last April my Government has no objection whatever to oppose to the well-considered terms of the draft protocol and therefore accepts them as a formula in keeping with the dignity of the two nations.

In the event that the result of the agreement concerning the delimitation of the frontiers can not be drawn up in other form than a public treaty between the interested nations, even if this be done through the agency of mediation, I judge it necessary to suggest that, according to the constitutional law of Ecuador, such a treaty would have to be submitted *ex post facto* to the approval of the National Legislature, an approval which would be forthcoming if, as is to be hoped, the delimitation agreed upon should be in conformity with equity and justice.

Trusting that, with these statements being taken into consideration, the execution of the draft protocol may be proceeded with without delay, thus rendering the mediation project effective, and tendering to the honorable representatives of the friendly Governments expressions of the loftiest recognition on behalf of my own, I have, etc.,

RAFL. M. ARIZAGA.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, August 30, 1910.

Department's August 10. Brazilian minister and I will make representations simultaneously at 3 p. m. to-day by means of individual notes in Portuguese and in English adhering to the department text. Have advised Lima.

Fox.

The Acting Secretary of State to the Brazilian Chargé.¹

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 1, 1910.

MY DEAR MR. CHARGÉ D'AFFAIRES: Referring to previous correspondence in regard to the tripartite mediation between Ecuador and Peru, I beg to inclose herewith [see supra], for your confidential information, a copy of a note received from the minister of Ecuador at this capital, setting forth the views of his Government regarding the protocol proposed by the representatives of the mediating powers.

I am, etc.,

HUNTINGTON WILSON.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, September 10, 1910.

Minister for foreign affairs of Ecuador replies to notes of Brazilian minister and myself relative to department's August 10, 2 p. m., by note of 28 pages, reiterating the position of Ecuador regarding direct arrangement and the Spanish arbitration as already stated in his note of May 24, stating that Ecuador has confidence in the mediating powers and desires peace, but that she can sign no protocol without the elimination of reference to Spanish arbitration. Minister for foreign affairs of Ecuador recapitulates, a translation of which follows:

1. The Government of Ecuador, since article 6 of the treaty of arbitration of 1887 is in force, had a perfect right to demand that her boundary dispute with Peru should be settled by means of direct arrangement, and for a greater reason, since the project of the unjust Spanish award is known, to resign herself to that would have been to accept the complete ruin of the nation.

2. Consequently the Government of Ecuador proceeded with all right and in conformity with its most sacred and undeniable duties in accepting the mediation conditions in the terms of the note of May 24 last.

3. The Government of Ecuador, while it asked that the protocol of Washington should be made to harmonize with the said note of May 24, only exercised an indisputable right, their attitude not implying any refusal of the humane principle of arbitration or distrust in the mediators or a desire contrary to peaceful actions, since we have given undeniable proofs of full faith in the honesty and impartiality of the said

¹ Same, mutatis mutandis, to the Argentine chargé.

friendly nations, and we have complied, with exactness and accuracy, with all their suggestions toward avoiding war and seeking a solution based on equity.

Have advised Lima.

FOX.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, October 18, 1910.

Minister of Ecuador at Lima has formally by note presented proposition for direct negotiations. Minister for foreign affairs of Peru will probably decline to consider it or any proposition, relying on mediators for solution.

It is thought Ecuador will base on this refusal a renunciation of arbitration treaty of 1887.

COMBS.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Quito, October 18, 1910.

Minister for foreign affairs of Ecuador by note to-day informs me that he has received the following telegram from Ecuadorian minister at Lima:

Peruvian Government can not take in consideration the proposal of Ecuador nor any other which has reference to boundary dispute, since that would be to disavow force of mediation; that both Governments were prevented from taking the initiative or from taking steps which would omit the mediators; that Peru has agreed to suspend any discussion of the boundary question and to maintain a status quo until the mediation has made itself effective.

Minister for foreign affairs of Ecuador said that thus Peru does not deny the intrinsic justice or expediency of the proposition of Ecuador; it is therefore deduced that if the mediators do not refuse it Peru will find no inconvenience in accepting.

FOX.

Minister Fox to the Secretary of State.

No. 784.]

AMERICAN LEGATION,
Quito, November 28, 1910.

SIR: I have the honor, respectfully referring to my telegram of November 25,¹ to inclose herewith copy of the note, with translation, transcribing to me the telegram from the Spanish minister for foreign affairs to minister for foreign affairs of Ecuador, in which it is stated that His Majesty the King of Spain had declined to act further as arbitrator in the boundary dispute between Ecuador and Peru.

I have, etc.,

WILLIAMS C. FOX.

¹ Not printed.

[Inclosure—Translation.]

The Minister of Foreign Relations to Minister Fox.

No. 223.]

MINISTRY FOR FOREIGN RELATIONS,
Quito, November 25, 1910.

EXCELLENT SIR: As a matter of deference to you I have the honor to inform you that I have received the following cablegram from his excellency the Spanish minister of state:

MADRID, November 24.

MINISTER FOR FOREIGN AFFAIRS:

The sole aim of the cabinet at Madrid was to promote harmony when, on the 18th of May, it informed the Governments of Ecuador and Peru that it saw no objection if both parties availed themselves of the postponement of the award to reach an agreement between themselves on the boundary question. The Spanish Government was inspired by the same sentiments when it advised the august arbiter that he should not renounce the arbitral powers while the parties did not decide to seek this agreement either directly or through the friendly mediation of the powers offered, in spite of the fact that the peculiar complexity of the litigation had more than ever been brought out when the opinions of the various individuals to whom, in Spain, an investigation of the affair had been confided were given, and by the passionate comments made thereon even when they were imperfectly known. At present, however, in view of the manner in which matter has been characterized by diplomatic documents referring to the conflict, second series, published in Quito (documents the knowledge of which in their textual entirety the Government of His Majesty has been waiting for), the cabinet of Madrid, believing, further, that a prolongation of the present situation will not bring about the desired conciliation, has deemed it best to advise the august arbiter to withdraw from the office conferred upon him by the parties for the solution of the boundary question. In informing your excellency that His Majesty has withdrawn in accordance with the counsels of his responsible advisers I would add that I am advising the minister for foreign relations of Peru in the same sense.

MANUEL GARCIA PRIETO,
Minister of State.

I avail myself, etc.,

J. PERALTA.

*Aide Mémoire to the Brazilian Embassy.¹*DEPARTMENT OF STATE,
Washington, December 19, 1910.

The tripartite mediation offered under the provision of The Hague convention intended to provide honorable avoidance of impending war having thus far successfully accomplished its high purpose, and by the precise terms of the mediation the mediating powers now finding themselves placed at the disposition of the Governments of Ecuador and Peru to facilitate by their good offices and wisest counsel in the exercise of the high advisory function of mediators the settlement of their boundary question, the Government of the United States, impressed with the difficulty and importance of that question, would be grateful to learn the views of the Governments of the Argentine Republic and of Brazil as to whether the three powers could now render as mediators any more valuable service to the Governments directly interested than to advise them to refer the whole question to The Hague court of arbitration, created for the final settlement of just such disputes, under the same convention by virtue of another provision of which the mediators' action has proved so efficacious.

The Secretary of State to Chargé Bliss.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 19, 1910.

Repeat to Petropolis.

Discuss with the Government to which you are accredited the subject of the following aide-mémoire to-day handed its representative here: [See supra.]

KNOX.

¹ Same to Argentine chargé.

Chargé Bliss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, December 21, 1910.

Argentine minister for foreign affairs says Argentine President wishes to know whether the department has information indicating that the Governments of Peru and Ecuador would accept proposal contained in your December 19. He says that it is the desire of the new administration to follow in future, as the Argentine Government has done in the past, the lead of the Government of the United States in the tripartite mediation.

BLISS.

Ambassador Dudley to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Petropolis, December 22, 1910.

Your December 19. Brazilian minister for foreign affairs agrees that mediators had best advise Peru and Ecuador to refer their whole question to The Hague court of arbitration, but predicts Ecuador will at once propose that Colombia be admitted as a party to the proceeding, in which case he suggests that the mediators, dissenting from the proposal, recommend in lieu thereof the subsequent submission to The Hague by Peru and Colombia of their boundary contention, all difference in this respect between Colombia and Ecuador being now settled by treaty.

DUDLEY.

The Secretary of State to Ambassador Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 23, 1910.

Repeat to the legation at Buenos Aires your December 22, adding that the department agrees to the suggestion that if Ecuador proposes Columbia's inclusion then the subsequent submission of any Peru-Colombia question be separately arranged.

Add that the American legation at Quito and Lima will now be instructed to make necessary representations whenever their Argentine and Brazilian colleagues have similar instructions.

KNOX.

The Acting Secretary of State to Minister Combs.

[Telegram.]

DEPARTMENT OF STATE,
 Washington, December 24, 1910.

Act on and repeat for action to the American legation at Quito the following:

So soon as you are advised that your Argentine and Brazilian colleagues have been similarly instructed you will communicate the following textually to the minister for foreign affairs:

The tripartite mediation, offered under the provisions of The Hague convention intended to provide honorable avoidance of pending war, having thus far successfully accomplished its high purpose and by the precise terms of the mediation the Governments of the United States of America, the United States of Brazil, and the Argentine Republic now finding themselves placed at the disposition of the Governments of Ecuador and Peru to facilitate, by their good offices and wisest counsel in the exercise of the high advisory function of mediators, the settlement of the boundary question, and impressed with the difficulty and importance of that question, believe that they can now render as mediators no more valuable service to the Governments directly interested than to advise them to refer the whole question to The Hague court of arbitration created for the final settlement of just such disputes under the same convention by virtue of another provision of which the action of mediators has proved so efficacious.

For your confidential information the department has reason to believe that this suggestion will be acceptable to Peru, and that Chile will insist on its acceptance by Ecuador. The minister for foreign affairs of Brazil predicts that Ecuador will at once propose that Colombia be admitted as a party to the proceeding, in which case he suggests that the mediators, dissenting from the proposal, recommend in lieu thereof the subsequent submission to The Hague by Peru and Colombia of their boundary contentions, all differences in this respect between Colombia and Ecuador being now settled by treaty. Should such prove to be the case you will act in concert with your Argentine and Brazilian colleagues.

WILSON.

Minister Fox to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
 Quito, December 27, 1910.

Department's December 24. My Brazilian colleague and I filed notes personally with minister for foreign affairs of Ecuador this afternoon. Dr. Peralta said that the matter would be referred to the President of Ecuador and Council of State, but that he would say that for his own part Colombia must be included because of treaty of May 12, 1910. I asked for a copy of the treaty and was informed that it was secret, but Dr. Peralta promised to consult Colombia with regard to furnishing copy. Minister for foreign affairs of Ecuador stated that it would be necessary to make a convention with Peru as the basis for negotiations at The Hague. This convention, he stated, would have to be approved by the Congresses of both countries. Minister for foreign affairs of Ecuador said that Peruvian minister at Quito had two days ago called on him and stated unofficially that the desire of Peru was for peace and the settlement of her difficulty with Ecuador by direct arrangement, a settlement which he considered would not be difficult as soon as the internal affairs in Peru had become tranquil. Minister for foreign affairs of Ecuador stated that he would reply to our notes in due course. Repeated Lima.

Fox.

Chargé Bliss to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Buenos Aires, December 28, 1910.

The President returned last night; approves your December 19. Argentine minister for foreign affairs is instructing Argentine minister at Lima to act with representatives of the United States and Brazil in accordance with your December 22, to Petropolis, and at the same time to telegraph minister for foreign affairs of Ecuador in a like sense.

BLISS.

Minister Combs to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lima, December 29, 1910.

Argentine and Brazilian colleagues and I presented the proposal of mediators, which minister for foreign affairs of Peru will submit to President of Peru and council of state. President of Peru and minister for foreign affairs of Peru personally assure me submission to The Hague entirely acceptable. Minister for foreign affairs of Peru declares that statement quoted by Mr. Fox in December 27, to effect minister for foreign affairs of Ecuador stated that Peruvian minister at Quito had desired direct arrangement was through a misunderstanding, as Peruvian foreign office had never entertained that view.

Repeated Quito.

COMBS.

Minister Fox to the Secretary of State.

[Telegram.—Extract.]

AMERICAN LEGATION,
Quito, December 30, 1910.

Regarding Comb's December 29, I simply ask the department to await developments, pointing to the fact that the Peruvian minister here to-day, through Brazilian minister, has asked the withdrawal of the police guard over the Peruvian legation which has been stationed there since the attack on that legation last April.

Brazilian minister has arranged informal and unofficial conference for next week at his legation between minister for foreign affairs of Ecuador, Peruvian minister, Colombian minister, Chilean minister, and myself, the subject to be discussed being the possibility of a direct arrangement between Peru and Ecuador of their boundary controversy.

FOX.

[To be continued in Foreign Relations, 1911.]

FRANCE.

FLOODS IN FRANCE.

File No. 23286/1.

President Taft to the President of France.

THE WHITE HOUSE,
Washington, January 27, 1910.

Is there any manner in which, through the National Red Cross or otherwise, appropriate expression could be made of the sympathetic distress with which the people and Government of the United States learn of the reported calamities which floods are causing your beautiful and historic capital, as well as in the Provinces of France? Meanwhile I offer you the sincerest sympathy and the most ardent wishes that the cause of these disasters may soon abate.

WM. H. TAFT.

File No. 23286/1.

The Acting Secretary of State to Ambassador Bacon.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 27, 1910.

Mr. Wilson informs Mr. Bacon of the sending of the telegram which the President has addressed to-day to the President of the French Republic and says that the National Red Cross state they would be prepared to cable \$5,000. Directs Mr. Bacon to telegraph for their information whether this would be advisable and acceptable, and if so, when and how it should be transmitted.

Mr. Wilson inquires as to the general situation, and asks if there has been any suffering on the part of Americans.

File No. 23286/1.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris, January 28, 1910.

Mr. Bacon says he called at the Foreign Office this morning and expressed the deep sympathy of the Government and people of the United States for the dreadful calamities caused by the flood, and inquired if it would be perfectly agreeable to the French Government to receive contributions from American citizens to aid the sufferers—many offers of aid having been cabled him from the United States. He says he was assured that such funds would be

gratefully received, and that they should be sent to the French Government through the embassy. Mr. Bacon says the American chamber of commerce already has received subscriptions of over 150,000 francs, including 100,000 from J. P. Morgan & Co. of New York.

Mr. Bacon adds that he can not learn of any Americans having suffered, but that some, including himself, have been compelled to move on account of the water backing up from sewers and drains and flooding cellars and kitchens. Mr. Bacon adds that the Associated Press dispatches seem accurately to describe conditions, which grow worse as the water rises.

The President of France to President Taft.

[Translation.]

PARIS, *January 28, 1910.*

The sympathy expressed by Your Excellency, both in your own name and in that of the American people, in the grievous circumstances we are undergoing, profoundly moves us. From the heart I thank you. Your ambassador came to announce the generous intentions of the American colony of Paris, and received the assurance of the gratitude with which we shall receive through him the subscriptions of all Americans for the sufferers.

A. FALLIERES.

File No. 23297/1.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris, January 29, 1910.

Mr. Bacon states that Red Cross remittances to the French Government should be sent through the embassy, and that if there is a preference as to the channel of distribution it should be indicated. For instance, he says, if the French Red Cross is preferred, it should be so indicated, and he adds that this society is well organized, responsible, and efficient.

File No. 23286/1.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris, January 30, 1910.

Mr. Bacon reports that it is believed that the crisis has been reached in the rising of the Seine. He says the river has fallen a little since Friday, but not before bursting dikes and flooding large and thickly settled islands in the suburbs, and while it is impossible to estimate the consequences of the disaster, it is believed that damage to crops, communities and factories will amount to hundreds of millions of American dollars in addition to conditions in Paris. He states that

he visited several of the Red Cross stations which are engaged in relieving individual suffering, and that food and clothing were being supplied to all holders of identification tickets from officials of the district, and that he was much impressed with the admirable organization which made it possible to begin such effective work at once. Mr. Bacon says the Red Cross seems to have the confidence of the Government, and that the prefect of the Department of the Seine and the minister of trade and commerce have both spoken to him of the effective organization. The stations, he says, are in charge of ladies who have taken examinations and who have been in charge of such work for years, and that distribution is being also effectively made by the prefect of the Department of the Seine through local officials with whom he is constantly in personal touch.

Mr. Bacon asks that the Red Cross be informed that the French Government would be pleased to make distribution of funds through any agency suggested by the donors, and that Louis Kloptsch be informed that his telegram was gratefully received. He adds that he can learn of no Americans in want or trouble except some inconvenience, and says he expects to be able to transmit in a day or two from 500,000 to 1,000,000 francs.

File No. 23297/4.

The French Ambassador to the Secretary of State.

FRENCH EMBASSY,
Washington, January 30, 1910.

MY DEAR MR. SECRETARY: I thank you most sincerely for your personal letter of yesterday,¹ conveying to me news of the state of the inundations in Paris and of the steps taken, in such a generous and friendly spirit, by the Chief of the State, by his representative in Paris, and by other American well-wishers of my country.

I beg you to receive the expressions of my gratitude for all that has been done. Every Frenchman will cherish in his heart the souvenir of President Taft's words of sympathy and of the help offered by him to the sufferers in case any were desired.

Believe me, etc.,

JUSSERAND.

File No. 23297/7.

Ambassador Bacon to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Paris, February 8, 1910.

Mr. Bacon reports Red Cross² and various agencies of the Prefect of the Department of the Seine are still engaged in work of feeding, clothing and housing flood sufferers, and says the work of drying and disinfecting is well underway, but that large districts are still under water.

¹ Not printed.

² The American Red Cross, Christian Herald, and others contributed large sums toward the relief of the flood sufferers.

PRESENTATION OF STATUE OF GEORGE WASHINGTON BY PEOPLE
OF VIRGINIA TO PEOPLE OF FRANCE.

The Secretary of State to Ambassador Bacon.

No. 58.]

DEPARTMENT OF STATE,

Washington, April 18, 1910.

SIR: I transmit herewith a copy of a letter which has been received from Mr. James Mann, chairman of the commission appointed by the governor of Virginia to present, on behalf of the people of that State to the people of France, a reproduction in bronze of the statue of George Washington made by Jean Antoine Houdon, a bill providing for this gift "as an expression of Virginia's cordial admiration and loving regard" having been recently passed by the general assembly of Virginia. I also inclose a copy of a letter from Gov. Mann, advising the department officially of the action taken by the general assembly and of the appointment of Col. James Mann as chairman of the delegation, Mr. Don P. Halsey and Mr. F. W. King as his associates, who will proceed to France as representatives of the people of Virginia, to make suitable presentation of the statue.

The department feels confident that you will take pleasure in informing the foreign office of this contemplated courtesy which the people of Virginia desire to extend to the people of France, and if it is the pleasure of the Government of that country to accept the gift for its people, as it doubtless will, the department would be glad if you would arrange for a suitable location, the approximate time for its unveiling, and such other details as may be found necessary for the presentation. The department will also be gratified if you can meet the members of the delegation upon their arrival at Paris with the replica, and upon the occasion of the unveiling simply introduce the chairman, who will make the address presenting the statue. It has been pointed out to the governor of Virginia that the gift should be made as coming from the people of the State of Virginia to the people of France rather than as a gift from the State to the Republic.

It is the desire of the department that you lend your hearty cooperation toward carrying out the wishes of the people of Virginia, and that arrangements to that end may be made at an early date.

I am, sir, etc.,

P. C. KNOX.

[Inclosure 1.]

Mr. Mann to the Secretary of State.

NORFOLK, VA., *April 9, 1910.*

SIR: I have the honor to inform you that at the recent session of the General Assembly of Virginia a bill was unanimously passed setting forth the historic friendship and the cordial relations which have existed for more than a century between the people of Virginia and the people of France and directing that a reproduction in bronze be made of Houdon's famous statue of Washington, and that the same be presented to the people of France "as an expression of Virginia's cordial admiration and loving regard."

It was further provided that a commission of three be appointed by the governor of Virginia to present the said reproduction of said statue, on behalf of the people of Virginia, to the people of France. Pursuant to this enactment the governor appointed as commissioners James Mann, Don P. Halsey, and F. W. King, and directed that they proceed to France and make the presentation in the name of the State of Virginia.

The original statue was made by Jean Antoine Houdon, of whom Jefferson wrote: "Houdon came to America to see and study Washington, and in October, 1785, spent two weeks as his guest at Mount Vernon. While there he took a mold of Washington's face and exact measurements of his person. He returned to Paris and there created in marble this statue, which was pronounced by Lafayette 'a fac simile of Washington's person.'" It stands in the place of honor in the center of the rotunda of the capitol at Richmond and is regarded by our people as a priceless possession. By artists and historians it is accepted as the standard likeness of Washington, and it is regarded not only as a true portrait of the most illustrious of all Americans but as a great and beautiful work of art.

A copy in bronze, pronounced to be a perfect copy of the original, has been placed by Virginia in Statuary Hall in the Capitol at Washington, and the reproduction which it is now proposed to present to the people of France will be cast in the same molds.

We can have the statue ready and in position at any time after the 10th day of August, 1910, and the commission will proceed to France and present the same at such time after said date and at such place as may be designated by the French Government upon its acceptance.

The commission respectfully requests that you communicate to the Government of the Republic of France, through the proper channels, the desire of the people of Virginia to present this statue to the people of France and that our ambassador at Paris represent us in making the necessary arrangements for its presentation.

It is perhaps well to add that after our conference with you on Monday last we called on the French ambassador for the purpose of presenting our compliments and of acquainting him with the action of the Virginia General Assembly. He received us most cordially, and was enthusiastic in assuring us that his Government would be much pleased to accept the gift on behalf of the people of France. I wrote Senator Martin an account of our visit to Ambassador Jusserand with the request that he communicate the same to you.

Thanking you on behalf of my associates and myself, I have, etc.,

JAMES MANN.

[Inclosure 2.]

The Governor of Virginia to the Secretary of State.

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
Richmond, April 11, 1910.

SIR: In connection with the letter addressed to you on the 9th instant by Col. James Mann, I deem it proper to advise you officially that by an act of the general assembly, approved March 17, 1910, provision was made for the presentation by the people of Virginia to the people of France, "as an expression of Virginia's cordial admiration and loving regard," of a reproduction in bronze of the famous statue of Gen. Washington, made by Houdon, which stands in the rotunda of the capitol of Virginia.

Pursuant to authority vested in me by said act I have appointed as representatives of the people of Virginia, to proceed to France and make presentation of this statue, Col. James Mann, chairman, Norfolk, Va.; Hon. Don P. Halsey, Lynchburg, Va.; and Hon. F. W. King, Clifton Forge, Va.

Any assistance you may render the gentlemen of this commission in the performance of their pleasant duties will be much appreciated by me.

I have the honor to remain, etc.,

WM. HODGES MANN.

File No. 24199/7.

The Acting Secretary of State to Ambassador Bacon.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 16, 1910.

Mr. Wilson refers to department's instruction No. 58, and says that Mr. Mann, chairman of the commission, writes that the French chargé d'affaires at Washington has informed him formally that the French Government will accept the statue, which will be placed at Versailles, and will be received and inaugurated in August next. Mr. Wilson directs Mr. Bacon to arrange for the free entry of the statue and to inform the department as soon as possible of the exact date set for the unveiling.

File No. 24199/11.

*Chargé Bailly-Blanchard to the Secretary of State.*AMERICAN EMBASSY,
Paris, July 8, 1910.

SIR: Referring to the instruction of the department of April 18, 1910 (serial No. 58), in regard to the presentation by the people of Virginia to the people of France of a reproduction in bronze of the statue of George Washington, made by Jean Antoine Houdon, I have the honor to transmit herewith a copy and translation of the reply of M. Pichon, minister of foreign affairs, to the note I addressed to him on the subject.

As you will observe, M. Pichon informs me that the statute is to be placed at Versailles, and that the date for the inauguration has been fixed for the 18th of August next, and further that this date will enable M. Jusserand to be present at the ceremony.

I have, etc.,

A. BAILLY-BLANCHARD.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Chargé Bailly-Blanchard.*MINISTRY FOR FOREIGN AFFAIRS,
Paris, July 4, 1910.

MR. CHARGÉ D'AFFAIRES: In response to your communication of June 15 last I hasten to advise you that I had already been informed by our chargé in Washington of the desire of the people of Virginia to present to France a bronze replica of the statue of Washington by Houdon, which adorns their capitol, Richmond.

The Government of the Republic has gratefully accepted the gift of that statue, and M. Lefèvre-Pontalis has been directed to express our high appreciation of this manifestation of the traditional friendship which unites the two countries.

I take pleasure in repeating that expression and in letting you know how highly we esteem this new token of the sentiments of mutual sympathy that bind the two nations.

In regard to the realization of the project I make haste to advise you that, by agreement with the department of fine arts, it has been decided to place the statue at Versailles and that the date for its unveiling has been set for August 18 next.

This date, which has been chosen to accord with the desire of the American delegation which is to come to France for the occasion, will make it possible for Mr. Jusserand to be present at the ceremony.

I have, etc.,

S. PICHON.

NATURALIZATION AND MILITARY SERVICE CASE OF RENE DUBUC.

File No. 23876.

The Secretary of State to Ambassador Bacon.

No. 29.]

DEPARTMENT OF STATE,
Washington, February 16, 1910.

SIR: I inclose a copy of a letter¹ addressed to this department on January 31, 1910, by Mr. John Gibson Hale, of Chicago, Ill., inquiring whether Mr. Rene Dubuc, who was born in France, has not yet attained his majority, and claims citizenship of the United States through the naturalization of his father, may visit his native land without fear of molestation on account of the military-service laws. You will note that Mr. Hale states that some time ago he addressed the French minister of justice in this matter, but has received no response to his letter.

The department desires you to present this case to the French Government, explaining that Mr. Dubuc was naturalized as a citizen of the United States through the naturalization of his father under our law. You will inquire whether he would be held liable to perform military service should he place himself within French jurisdiction for a short time.

I am, etc.,

P. C. KNOX.

File No. 23876/L.

Ambassador Bacon to the Secretary of State.

No. 84.]

AMERICAN EMBASSY,
Paris, March 24, 1910.

SIR: Referring to the department's No. 29, of February 16, 1910, I have the honor to forward herewith a copy and translation of the note dated March 10, with memorandum, which I received from the minister of foreign affairs in reply to my query in pursuance of your instructions, as to whether Mr. Rene Dubuc, who was naturalized as a citizen of the United States through the naturalization of his father under our law, would be held liable to perform military service should he place himself within French jurisdiction for a short time.

As you will observe in the above-mentioned memorandum, in the absence of conventions the French tribunals declare to be French minor children of French parents naturalized in foreign countries during their minority. Mr. Dubuc, according to French law, is therefore French, and consequently subject to all the obligations of a Frenchman, notably those of military service. His naturalization abroad will not cause him to lose his quality of Frenchman except if it has been authorized by the French Government. (Art. 17, par. 2, of the Civil Code.)

¹ Not printed.

Mr. Pichon further states that the keeper of the seals, after informing him that Mr. Dubuc solicited, through the medium of Mr. John Gibson Hale, attorney and counselor, Marquette Building, Chicago, the necessary authorization to become an American citizen, in order that his naturalization be recognized in France has requested him to inform the petitioner that by reason of his minority, he being born in Paris on February 20, 1890, he could not now be authorized to change his nationality, and that after the 26th of February, 1911, when he will have attained his majority, if he persists in his intention, he should renew his request and annex thereto his birth certificate, that of his father, and the naturalization papers of the latter.

In compliance with this request the minister of foreign affairs states that he has instructed the French consul at Chicago to bring to the notice of Mr. Dubuc the above information.

I have, etc.,

ROBERT BACON.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Bacon.

FOREIGN OFFICE,
Paris, March 10, 1910.

MR. AMBASSADOR: By a letter dated the 4th instant your excellency was good enough to submit to me the case of Mr. Rene Dubuc and to ask if he could make a trip to France without running the risk of being disturbed by the military authorities.

Mr. Dubuc, now 20 years old, was born in France of French parents, with whom he emigrated to the United States when a child. His father having become a naturalized American during his minority, he became an American by this fact and would like to know what is his position in the eyes of the French law.

In reply to this request I have the honor to address herewith to your excellency in the form of a note some information of a general order on the legislation applicable to the present case.

I may add that the keeper of the seals has just informed me that Mr. Dubuc (Rene Adolph), born in Paris February 20, 1890, solicited through the medium of Mr. John Gibson Hale, attorney and counselor, Marquette Building, Chicago, the authorization to become a naturalized American, authorization necessary according to the terms of article 17, paragraph 2 of the civil code, in order that his naturalization might be recognized in France.

My colleague has requested me to inform the petitioner that by reason of his minority he could not now be authorized to change his nationality, and that if he persisted in his intention he should renew his request after the 26th of February, 1911, and annex thereto his birth certificate, that of his father, and the naturalization papers of the latter.

In compliance with the desire expressed by Mr. Barthou, I have just instructed our consul at Chicago to bring to the notice of Mr. Dubuc the above information.

Accept, etc.,

S. PICHON.

[Subinclosure—Translation.]

Note.

* According to the terms of Article VIII 1° of the French Code is French—
Every individual born of a Frenchman in France or abroad.

Foreign naturalization obtained by a French father only produces, according to French legislation, strictly individual results and is inoperative with a view to changing the French nationality of his minor children born before his naturalization, even though the legislation of certain foreign countries admits that the naturalization of the head of the family produces a collective effect and extends by right to his wife and his minor children.

In this case there is a conflict of laws—a conflict which each sovereign and independent nation settles by making the national law prevail in its territory over the foreign law.

France has concluded with certain States—notably Switzerland (convention of July 23, 1879) and Belgian (convention July 23, 1891)—conventions with a view to the settlement of the conflict of laws of this nature by the recognition for the benefit of minors of a right of option for the nationality of their parents at their majority.

No convention of this nature exists between France and the United States.

In the absence of conventions the French tribunals, sole judges of questions of nationality, declare to be French minor children of French parents naturalized foreigners during their minority. In this sense may be cited, notably:

The decision of the court of Besancon of July 30, 1902—Gide case, J. Dr. Int. Pr. 1903, page 370.

A decision of the court of appeal of Amiens of July 13, 1899 (Vacquerel case, J. Dr. Int. Pr. 1902, p 837), has moreover established that a child born in the United States of a French father who had taken out his naturalization papers, but who was not yet naturalized, was French, as being born of a father who had not yet lost his quality of Frenchman at the time of his birth.

The child remaining French continues, moreover, subject to all the obligations of a Frenchman, notably those of military service.

If he is still subject to military service for the active army his naturalization abroad will not cause him to lose quality of Frenchman except if his naturalization has been authorized by the Government (art. 17, par. 2 of the Civil Code).

File No. 351.117 D 85/2.

The Secretary of State to Ambassador Bacon.

No. 159.]

DEPARTMENT OF STATE,
Washington, November 11, 1910.

SIR: Referring to dispatch No. 84, of March 24, 1910, and previous correspondence relative to the nationality of René Dubuc, I send you herewith a copy of a letter addressed to the President October 31, 1910, by Mr. John Gibson Hale,¹ attorney for Mr. Dubuc, and referred to the department by the Secretary to the President on the 2d instant.

The department desires that you ascertain, if possible, and report as to what fee, if any, must accompany Mr. Dubuc's request for authorization to relinquish French nationality. The department also desires to be informed to what official Mr. Dubuc's request should be addressed.

I am, etc.,

P. C. KNOX.

File No. 351.117 D 85/3.

Ambassador Bacon to the Secretary of State.

No. 359.]

AMERICAN EMBASSY,
Paris, November 30, 1910.

SIR: Referring to your instruction No. 159 of November 11, 1910, relative to the nationality of René Dubuc, I have the honor to inform you that upon inquiry at the foreign office I learn that, in order for Mr. Dubuc to relinquish his French nationality, when he becomes of age it will be necessary for him to apply, through the French consul at Chicago, to the minister of justice for such authorization, and at the same time to pay a fee of 637 francs.

I have, etc.,

ROBERT BACON.

¹ Not printed.

GERMANY.

PROSECUTION BY THE UNITED STATES OF AMERICAN CITIZENS FOR CRIMES COMMITTED IN FOREIGN COUNTRIES.

File No. 22867.

Chargé Hitt to the Secretary of State.

No. 527.]

AMERICAN EMBASSY,
Berlin, December 6, 1909.

SIR: I have the honor to transmit herewith a copy, with translation, of a note which I have received from the foreign office, under date of the 4th instant, relative to one Max Runge, who is being sought by the New York police under a charge of theft, and whose arrest, with a view to extradition, the New York police department has requested of the police president of Berlin.

It will be observed that the foreign office points out that the individual in question would not seem to be extraditable, as the offense against him is not included in the extradition treaty of June 16, 1852, but that if he is a German subject, he might be prosecuted before the German courts, if this was requested by the Government of the United States and the assurance given of reciprocal treatment on the part of the United States in similar cases.

I have, etc.,

R. S. REYNOLDS HITT.

[Inclosure—Translation.]

[Note verbale.]

FOREIGN OFFICE,
Berlin, December 4, 1909.

The foreign office has the honor to inform the embassy of the United States of America that, under date of November 5, 1909, the New York police department requested the president of police at Berlin to cause the necessary steps to be taken in order that search might be instituted for one Max Runge, a ship steward, born at Berlin, April 3, 1881, wanted in New York for theft, and that in case he should be found he might be provisionally detained for the purpose of his extradition.

Since the fugitive is said to have been born here it is to be presumed that he was born a German subject. The question is raised whether he has in the meanwhile lost his German nationality by acquiring citizenship in the United States of America. In neither case would his extradition come in question, since the offense with which he is charged is not listed in the extradition treaty of June 16, 1852, between Prussia and other States of the Germanic Federation on the one part and the United States of North America on the other part. In case Runge should still possess German nationality it could be considered whether he might not be brought before the German courts to answer for the offense committed in the United States. In order to do this, however, it would be necessary for the Government of the United States of America to request Runge's criminal prosecution and at the same time to declare that it guarantees reciprocity in reverse cases.

The foreign office therefore has the honor to request information concerning the points designated from the embassy of the United States of America.

File No. 22867.

The Secretary of State to Ambassador Hill.

No. 299.]

DEPARTMENT OF STATE,
Washington, January 11, 1910.

SIR: The department has received your No. 527 of the 6th ultimo, relative to the request of the New York police authorities for the arrest in Germany of Max Runge, a fugitive from justice in this country, and his possible extradition to the United States.

Inasmuch as, under Anglo-Saxon legal theory, crime is territorial, not personal, and therefore the criminal jurisdiction of the United States does not, as a general rule, extend to crimes committed outside of its jurisdiction, whether by American citizens or aliens, it is not possible to meet the suggestion of the German note verbale that this Government guarantee, in cases the reverse of Max Runge's case, the criminal prosecution in this country of an American citizen charged with the commission of a crime in Germany. It may be remarked that the department has no communication from the New York authorities respecting the Max Runge case and is not advised of the circumstances thereof beyond what is contained in the note verbale from the German foreign office.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.**ALLEGED DISCRIMINATION AGAINST FOREIGN CREDITORS BY
AMERICAN COURTS—AMERICANS AS PREFERRED CREDITORS.**

File No. 311.624 D63.

The German Ambassador to the Secretary of State.

[Translation.]

No. 2177/10.]

IMPERIAL GERMAN EMBASSY,
Washington, May 27, 1910.

MR. SECRETARY OF STATE: By direction of my Government I have the honor to draw your excellency's attention to a case of unequal treatment accorded by American courts to German and American citizens which came to light in the herein below-described litigation.

In August, 1901, the Discontogesellschaft of Berlin brought suit in the circuit court of Milwaukee, Wis., against Gerhard Terlinden, a German subject, who was prosecuted in Germany on account of various criminal acts there committed, had fled to the United States, and was subsequently extradited, for reparation of the damage sustained on account of the aforesaid criminal acts. He took this action in accord with the receiver, who in the meanwhile had been appointed in Germany to take charge of Terlinden's estate, in that it intended to turn over to the estate the money recovered through the suit. At the same time it caused to be legally attached, among other things, an asset of \$6,420 held by Terlinden in the First National Bank of Milwaukee. On February 19, 1904, it obtained a judgment in the sum

of \$94,145.11 against Terlinden, for whom Attorney Umbreit appeared as counsel in the suit.

Then Attorney Umbreit sued Terlinden for the fees due him, and on March 22, 1904—that is to say, after the attachment effected on account of the Diskonto-Gesellschaft and the judgment rendered in its favor—also attached the above-mentioned account in the bank. Terlinden was not represented in that suit and on June 11, 1904, a judgment by default in the sum of \$7,500 was rendered against him.

Both of Terlinden's creditors—the Diskonto-Gesellschaft and Umbreit—now laid claim on the ground of the decisions rendered in their favor as preferential satisfaction of their demands out of the asset attached by both. The Diskonto-Gesellschaft obtained in the above-named circuit court a judgment based on its prior established right, by which its claim in that respect was recognized. Upon Attorney Umbreit's appeal, however, the supreme court of the State of Wisconsin reversed the judgment of the first court and granted Umbreit the right of preferential satisfaction out of the attached bank credit. The ground on which the judgment was based was that the Diskonto-Gesellschaft, as a German juristic person, even on account of a prior attachment, could not be held to be entitled to seeking preferential satisfaction out of property in Wisconsin as against a citizen of Wisconsin (Umbreit); that is to say, an action brought in an American court by an alien residing out of the State of the court of trial can not, except in case of the protection of proprietary rights to real or personal estate in the said State or of rights growing out of a contract with a resident of the State being in question, be deemed "an action maintainable as a matter of right." Such actions, together with the mortgage rights exercised in connection therewith, are rather receivable solely on the general principles of "comity. The consequences to be expected from a judgment in favor of the Diskonto-Gesellschaft—namely, the removal of the property in dispute to Germany there to be administered upon for the benefit of Terlinden's German creditors—should however be regarded as incompatible with the public policy of Wisconsin.

The Supreme Court of the United States, to which the Diskonto-Gesellschaft then appealed, found no occasion to alter that decision. On the contrary, in a decision of February 24, 1908, it declares it to be a principle obtaining throughout the territory of the United States of America that, so long as there is no provision of positive law or treaty with foreign States to the contrary, it is for every State of the Union to determine how much it will allow, in accordance with the principles of "comity" and in proportion to these rights, foreign creditors who come in conflict with "local creditors." The treaty of May 1, 1828, between the United States and Prussia here coming under consideration contains no provision which stands against this conclusion.

In contradistinction to this judicial construction which has obtained recognition here and according to which American creditors are, in principle, given preference over foreign creditors as to the forcible guarantee and collection of their claims on debtors in America, the German law provides that, no matter whether the creditors are natives or aliens, residents of Germany or other countries, priority is conclusive in all cases as to the precedence of rights established on

coercive measures. Paragraph 804, section 3, of the Rules of Civil Procedure (Reichsgesetzblatt, 1898, p. 410) reads as follows:

The lien established on an earlier attachment takes precedence over that established by a later attachment.

The same principle also obtains in the case of seizure proceedings, paragraph 930, section 1, of the same law, containing the following provision:

The execution of the seizure of movable property is effected through the process of attachment. Attachment is affected according to the same principles as any other attachment and establishes a lien with the effects specified in paragraph 804.

How injurious the different American judicial construction may prove to the interest of German creditors is shown by the present case. Nor has it escaped notice in Germany and America and it has been keenly discussed in the German press as well as in several American papers. The German Government is of opinion that the law condition above described is apt to effect unfavorably the lively relations which bind to one another wide circles of the people, especially in the commercial world, of both countries. The inequality in the treatment of the respective citizens and subjects could be removed by a special provision in the sense of article 24 of the law putting into effect the rule of civil procedure which would apply to Americans in Germany the principle observed in America towards the Germans. The Imperial Government, however believes it would be preferable to remove the law inequality under consideration by means of an understanding between the two Governments. The question then would be to conclude an arrangement to the effect that the subjects or citizens of one party would derive from the attachments obtained by them in a court of the other party by way of seizure or distraint the same rights as are enjoyed by the citizens or subjects of the other party residing within the district of the court.

I should be especially thankful to your excellency if you would kindly acquaint me with the position of the Government of the United States on this question.

Accept, etc.,

J. BERNSTORFF.

The Acting Secretary of State to the German Chargé.

No. 295.]

DEPARTMENT OF STATE,
Washington, August 31, 1910.

SIR: I have the honor to acknowledge the receipt of the Imperial German Embassy's note of May 27, 1910, regarding the rival claims of American and German creditors in American courts, with special reference to the case of one Terlinden, a German subject. The questions raised by your note which have received the very careful consideration of this Department, appear to involve the following facts and circumstances:

One Terlinden, a resident of Germany, absconded from the German Empire with money belonging apparently to the Disconto-Gesellschaft, which money he deposited August 9th and 14th, 1901, to the extent of \$6,420, in the First National Bank of Milwaukee. The Disconto-Gesellschaft, a banking corporation of Berlin, by the

German Consul* began an action August 17, 1901, in the Milwaukee county court in Wisconsin, against Terlinden for the recovery of this money, and at the same time garnisheed the First National Bank. Terlinden hired Umbreit, a citizen of Wisconsin and an attorney, to defend him in the suit. In this cause judgment was given February 19, 1904, against Terlinden for \$94,145.11.

Umbreit interpleaded as a defendant in the above suit, and on March 21, 1904, also garnisheed the First National Bank and began suit against Terlinden for the recovery of the value of his services as attorney. As Terlinden had been extradited to Germany upon charges of forgery, counterfeiting, and the utterance of forged papers (see *Terlinden v. Ames*, 184 U. S., 270) the service of summons was had by publication on June 11, 1904 (about four months after judgment was rendered for the Disconto-Gesellschaft). Judgment was given by default in favor of Umbreit for \$7,500.

On the question as to who should have priority, the Disconto Gesellschaft, a foreign corporation, or Umbreit, an American citizen, to the sum of \$6,420, on deposit in the First National Bank, the county court held that the Disconto Gesellschaft should come in first. The supreme court of Wisconsin on appeal reversed this judgment and gave priority to Umbreit on the general ground—

that no court in such case ever has allowed or should allow the foreigner to seize and carry away property within the jurisdiction when a resident creditor stands also at the bar with his judgment and his provisional lien, and thus force such resident creditor to go to a foreign country to collect his debt. If such action be not prejudicial to the rights and interests of our own citizens, it is difficult to see what action would be prejudicial. Nor does it make any difference that the home creditor's claim may have accrued after that of the foreign creditor; the question is not to be determined by priority in point of time any more than by priority of garnishment, but by the situation at the time when the court is called upon to finally decide which creditor shall receive its aid. So, if the case were devoid of any other facts, comity would require that the interests of the home creditor be protected. (127 Wis., p. 667.)

In regard to Article I of the United States-Prussia treaty of 1828 and the treaty of 1799 between the same parties the court were "unable to see that either of these treaty provisions has any bearing on the questions in controversy here." (P. 677.)

The United States Supreme Court on appeal affirmed the judgment of the supreme court of Wisconsin. The court said:

What property may be removed from a State and subjected to the claims of creditors of other States is a matter of comity between nations and States and is not a matter of absolute right in favor of creditors of another sovereignty, when citizens of the local State or country are asserting rights against property within the local jurisdiction. (208 U. S., 578.)

* * * * *

There being, then, no provision of positive law requiring the recognition of the right of the plaintiff in error to appropriate property in the State of Wisconsin and subject it to distribution for the benefit of foreign creditors as against the demands of local creditors, how far the public policy of the State permitted such recognition was a matter for the State to determine for itself. In determining that the policy of Wisconsin would not permit the property to be thus appropriated to the benefit of alien creditors as against the demands of the citizens of the State, the supreme court of Wisconsin has done no more than has been frequently done by nations and States in refusing to exercise the doctrine of comity in such wise as to impair the right of local creditors to subject local property to their just claims. We fail to perceive how this application of a well-known rule can be said to deprive the plaintiff in error of its property without due process of law. (P. 580.)

In regard to the treaties the court stated that the treaty of 1799 expired by its own terms June 2, 1810, and that the provision of

this treaty, which was relied upon in this case, was not revived by Article XII of the treaty of May 1, 1828. As to Article I of the treaty of 1828 the court declared—

there is nothing in this treaty undertaking to change the well-recognized rule between States and nations which permits a country to first protect the rights of its own citizens in local property before permitting it to be taken out of the jurisdiction for administration in favor of those residing beyond their borders. (P. 582.)

In the course of its opinion the court also pointed out that this ruling was in accord with the general law in force between the different States in the Union with reference even to assignments. Upon this point the court said:

Even between the States of the American Union, as shown in the opinion of Mr. Justice Brown in *Security Trust Co. v. Dodd, Mead & Co.*, 173 U. S., supra, it has been the constant practice not to recognize assignments for the benefit of creditors outside the State, where the same came in conflict with the rights of domestic creditors seeking to recover their debts against local property. This is the doctrine in force as against natives of the country residing in other States, and it is this doctrine which has been applied by the supreme court of Wisconsin to foreign creditors residing in Germany. In short, there is nothing in this treaty undertaking to change the well-recognized rule between States and nations which permits a country to first protect the rights of its own citizens in local property before permitting it to be taken out of the jurisdiction for administration in favor of those residing beyond their borders.

In this connection it may not be improper to direct to your attention the fact that it would appear that the laws of Germany and the United States are not in accord in other particulars than the one to which you have referred. As an illustration of this, there might be cited the recent suit instituted in the German courts by American policyholders against certain German insurance companies, which had issued large policies in San Francisco prior to the destruction of that city by earthquake and fire. You will recall that notwithstanding the general rule that judgments secured in the courts of one country are, as a matter of comity, enforced in the other country—a rule well recognized in international law—and notwithstanding that there was furnished to the German courts evidence establishing not only that the courts of California would enforce a judgment secured in a foreign tribunal against a person resident in California where the foreign tribunal would grant a reciprocal right in favor of American judgments, but that this was the common rule and practice of American courts, both State and Federal, yet the courts of Germany have refused in certain test cases brought therein, to enforce against German insurance companies judgments secured in the courts of California upon policies held by citizens of the United States upon property destroyed in San Francisco at the time of the earthquake and fire.

Accept, etc.,

HUNTINGTON WILSON.

IMMUNITIES OF UNCLASSIFIED VICE CONSULAR OFFICERS.

File No. 20362/20.

The German Ambassador to the Secretary of State.

[Translation.]

No. 896/10.]

GERMAN EMBASSY,
Washington, March 4, 1910.

MR. SECRETARY OF STATE: I have the honor to inclose to your excellency a certified copy of two complaints against Mr. Alfred Clayton Johnson, vice consul general of the United States at Dres-

den. The complaints were made by Baron George de Crano and Mrs. Mary Humphrey de Crano, and relate to the settlement of an estate.

As vice consul of the United States Mr. Johnson has the privilege of inviolability of his dwelling, and it was impossible to serve notice of the complaints through the Royal Saxon authorities at Dresden in the usual manner, because Mr. Johnson would not give his consent to enter his dwelling for the purpose of serving the complaints. The Royal Saxon ministry of foreign affairs has therefore requested me to have the papers served through diplomatic channels.

I accordingly have the honor to request your excellency to have these papers transmitted to Mr. Johnson, and will call your excellency's attention to the fact that the date fixed for the hearing of the case is April 23, and that it would be in the interest of both Mr. Johnson and the plaintiff to expedite the matter as much as possible.

I also take the liberty to request your excellency to kindly let me know when the papers have been served, in order that the official annotation of the fact may be made on the originals which are being held here temporarily and which are to be sent back to the Saxon authorities.

Please accept, etc.,

J. BERNSTORFF.

File No. 20362/20.

The Secretary of State to the German Ambassador.

No. 219.]

DEPARTMENT OF STATE,
Washington, April 13, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th ultimo in which you inclose certified copies in two civil suits brought at Dresden against Mr. Alfred C. Johnson, vice consul general of the United States at that city. You further advise the department that Mr. Johnson declined to accept service in these cases, and that the Royal Saxon minister of foreign affairs had therefore requested you to have the papers served through diplomatic channels.

In reply I have the honor to advise you that the department, on the 11th instant, forwarded the papers to the American consul general at Dresden, and instructed him to deliver them to Mr. Johnson, along with an instruction from this department to that officer.

In the latter instruction Mr. Johnson was advised that the department did not approve his action in refusing to submit himself to the jurisdiction of the Dresden court for the adjustment of matters growing out of his private business relations.

It further advised him that it was of opinion that, under the treaty of December 11, 1871, between the United States and Germany, unclassified vice consular officers were liable to the jurisdiction of the courts of that State of the Empire in which they were located.

Mr. Johnson was also instructed to submit himself forthwith to the jurisdiction of the court in order that the controversy might be adjusted.

Accept, etc.,

P. C. KNOX.

GREAT BRITAIN.

DEATH OF HIS MAJESTY KING EDWARD VII AND SUCCESSION OF HIS MAJESTY KING GEORGE V TO THE THRONE.

President Taft to Her Majesty Queen Alexandra.

[Telegram.]

THE WHITE HOUSE,
Washington, May 6, 1910.

On the sad occasion of the death of King Edward I offer to Your Majesty and to your son, his illustrious successor, the most profound sympathy of the people and of the Government of the United States whose hearts go out to their British kinsmen in this, their national bereavement. To this I add the expression to Your Majesty and to the new King of my own personal sympathy and of my appreciation of those high qualities which made the life of the late King so potent an influence toward peace and justice among the nations.

WM. H. TAFT.

The Secretary of State to Ambassador Reid.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 6, 1910.

Apart from the message which the President has sent to Queen Alexandra you will make to British Government appropriate expression of the sympathy of the President, Government, and people of the United States in the loss by their British kinsman of a ruler so beloved and so distinguished among the nations for the influence of his kindness and wisdom toward all that is best.

P. C. KNOX.

The British Ambassador to the Secretary of State.

No. 74.]

BRITISH EMBASSY,
Washington, May 7, 1910.

SIR: I am profoundly grieved to inform you that I have received a cable message from Sir Edward Grey announcing the demise of the King last evening at 11.45.

It is my melancholy duty to request that you will bring the sad intelligence to the knowledge of the President and his Cabinet.

I have, etc.,

JAMES BRYCE.

File No. 13251/8.

The Acting Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, May 7, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of this day's date, by which you officially communicate the sad intelligence of the death last evening at 11.45 o'clock of His late Majesty King Edward VII.

Deeply moved by this lamentable event the President has, in telegrams addressed to Queen Alexandra and to His Majesty George V, given expression to the profound sympathy of the people and Government of the United States with their majesties and with the British Nation in their bereavement, as well as to his personal sympathy and appreciation of the high qualities which made the life of His late Majesty so full of influence toward peace and justice among the nations; and, participating in these sentiments, the Secretary of State, in a telegram to Sir Edward Grey, expressed his sympathy and sorrow in the loss sustained by the British Government. Added to these, I beg to assure your excellency of my own sympathy and condolence with your excellency and the British people in this hour of grief.

Should your excellency so desire the department places itself subject to your request in cooperating with the embassy in arranging for a memorial service to His late Majesty at such date and place as your excellency may select.

I have, etc.,

HUNTINGTON WILSON.

File No. 24607.

The Secretary of State to the British Minister for Foreign Affairs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 7, 1910.

I offer to your excellency the expression of my personal sympathy and sorrow in the great loss which has been sustained by the Government of Great Britain in the death of His Majesty King Edward.

P. C. KNOX.

File No. 24607/2a.

President Taft to His Majesty King George V.

[Telegram.]

THE WHITE HOUSE,
Washington, May 7, 1910.

In renewing to your majesty the condolences of the American Government and people upon the death of His Late Majesty I convey to you the heartiest good wishes for the prosperity of your reign.

WM. H. TAFT.

His Majesty King George V to President Taft.

[Telegram.]

LONDON, May 7, 1910.

I am deeply grateful to you, your Government, and people for your condolence on the death of my beloved father and for your good wishes for my future prosperity.

GEORGE R. AND I.

Her Majesty Queen Alexandra to President Taft.

[Telegram.]

LONDON, May 7, 1910.

I am deeply touched by your telegram, and I ask you to convey my heartfelt thanks to the people and the Government of the United States for their sympathy in my irreparable loss and sorrow.

ALEXANDRA

File No. 24607/21.

Ambassador Reid to the Secretary of State.

No. 1268.]

AMERICAN EMBASSY,
LONDON, May 8, 1910

SIR: I have the honor to inclose herewith a copy of a foreign office note dated the 7th instant announcing the death of His Majesty King Edward VII and informing me that the British ambassador at Washington has been instructed by telegraph to convey the sad news to the Government of the United States

I have, etc.,

WHITELAW REID

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, May 7, 1910.

YOUR EXCELLENCY: It is with profound sorrow that I have the honor to announce to your excellency that it has pleased Almighty God to call to his rest His Most Gracious Majesty Edward VII, King of the United Kingdom of Great Britain and Ireland, Emperor of India.

His Majesty passed away peacefully at Buckingham Palace at 11:45 last night to the profound affliction of the royal family and of all classes of his loyal subjects throughout the British Empire.

I feel persuaded that your excellency will participate in the deep and widespread sorrow which this melancholy event has occasioned.

The British ambassador at Washington has been instructed by telegraph to announce the mournful intelligence of His Majesty's death to the United States Government.

I have, etc.,

E. GREY.

File No. 24607/6.

The British Ambassador to the Secretary of State.

No. 75.]

BRITISH EMBASSY,
Washington, May 8, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant and to convey to you my sincere thanks for your sympathy and condolence on the occasion of the death of His Late Majesty King Edward VII.

The telegrams which the President has addressed to Queen Alexandra and His Majesty the King will be received by them and the British Nation with a grateful sense of the feeling which has animated the President in his warm appreciation of the great qualities and services rendered to the cause of international good will by His Late Majesty King Edward, and it will be universally recognized that he is expressing the sentiments of the people of the United States.

As soon as I hear from His Majesty's principal secretary of state for foreign affairs on what day the funeral of His Late Majesty is to take place I shall at once avail myself of your kind offer of cooperation in arranging for a memorial service.

I have, etc.,

JAMES BRYCE.

File No. 24607/5.

The British Minister for Foreign Affairs to the Secretary of State.

[Telegram.]

LONDON, May 9, 1910.

I am very grateful to you for your kind message of sympathy in the irreparable loss which my country has sustained.

EDWARD GREY.

File No. 24607/11 A.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 11, 1910.

Mr. Knox informs Mr. Reid that the President desires to show the high respect due to the memory of the late King, and has invested ex-President Theodore Roosevelt with the rank and character of a special ambassador to represent him and the people of the United States at the funeral ceremonies, which are to take place at London on the 20th instant. Mr. Knox says that as time will not permit of a formal letter of credence being sent to Col. Roosevelt, who has been notified through the embassy at Berlin, the President desires him to make this designation known to the appropriate British authorities.

File No. 24607/11.

The British Ambassador to the Secretary of State.

No. 77.]

BRITISH EMBASSY,
Washington, May 11, 1910.

SIR: With reference to my note No. 75 of the 7th instant, I have the honor to inform you that I have received a telegram from His Majesty's principal secretary of state for foreign affairs informing me that the funeral of His late Majesty King Edward VII will take place at Windsor on the 20th instant.

I have, etc.,

(For the Ambassador.)
C. INNES MITCHELL.

File No. 24607/14 A.

The Secretary of State to Ambassador Reid.

No. 1295.]

DEPARTMENT OF STATE,
Washington, May 13, 1910.

SIR: The department desires you to communicate to the foreign office the text of the following resolution, which was adopted by the United States Senate on the 9th instant, on the occasion of the death of His Majesty King Edward VII:

Resolved, That the death of His Royal and Imperial Majesty Edward VII, the bereavement of his people, and the loss to the world of his wise and kindly influence for peace and good government are deeply deplored by the Senate of the United States of America.

Resolved, That the foregoing resolution be communicated through the Department of State to the Government of Great Britain.

Resolved, That, as a further mark of respect, the Senate do now adjourn.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 24607/14 B.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 14, 1910.

Mr. Reid is instructed to accredit the suite of Special Ambassador Roosevelt in the following terms: Henry White, ex-ambassador, diplomatic delegate, with the rank of envoy extraordinary and minister plenipotentiary; Commander Andrew T. Long, naval aid-de-camp; and Maj. T. Bentley Mott, military aid-de-camp.

File No. 24607/30.

Ambassador Reid to the Secretary of State.

No. 1276.]

AMERICAN EMBASSY,
London, May 17, 1910.

SIR: With reference to the department's cable of the 7th instant, instructing me to express to the British Government the sympathy of the President, Government, and people of the United States at the

lamented death of King Edward VII, I have the honor to transmit herewith copies of my notes to the foreign office of the 7th and 8th instant in this sense, together with Sir Edward Grey's replies of the 11th and 13th instant.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, May 7, 1910.

SIR: My Government instructs me to express to you, and through you to the British Government and people, the sincere and profound sympathy of the President, Government, and people of the United States in the loss by their British kinsmen of a ruler so beloved and so justly distinguished among all the nations of the earth for his wisdom and kindliness and for the influence of these high qualities in behalf of all that is best.

I have, etc.

WHITELAW REID.

[Inclosure 2.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, May 8, 1910.

SIR: I have the honor to acknowledge the note of May 7, in which you communicate the lamentable information as to the death during the previous night of His Majesty Edward VII, King of the United Kingdom of Great Britain and Ireland, Emperor of India.

I had previously kept the President and the Secretary of State of the United States informed concerning the critical illness of His Majesty, and later had announced to them its sad ending. The President immediately offered direct by cable to Queen Alexandra, for Her Majesty and for her son, the late King's illustrious successor, the most profound sympathy of the people and Government of the United States, whose hearts go out to their British kinsmen in this national bereavement. He had added his own personal sympathy for Her Majesty and for the new King, together with his appreciation of those high qualities which made the life of the late King so potent an influence toward peace and justice among the nations.

I have had the honor earlier to-day of expressing to you, under instructions from the Secretary of State, the sincere and profound sympathy of the President, Government, and people of the United States in the loss by their British kinsmen of a ruler so beloved and so justly distinguished among all the nations of the earth for his wisdom and kindliness and for his influence in behalf of all that is best.

You only do me justice, sir, in the conviction you are kind enough to express that I participate, as indeed I do with all my heart, in the deep and widespread sorrow which this melancholy event has occasioned.

I have, etc.,

WHITELAW REID.

[Inclosure 3.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, May 11, 1910.

YOUR EXCELLENCY: I duly laid before the King, my Sovereign, your note of the 7th instant, in which your excellency expresses the condolences of the President, Government, and people of the United States of America on the occasion of the deeply lamented death of His Late Majesty King Edward VII, and I have received the King's commands to request your excellency to convey to the President and Government of

the United States his most sincere thanks for their much appreciated messages of sympathy in the great loss which has been sustained by His Majesty, his royal house, and his subjects throughout the world.

I have, etc.,

E. GREY.

[Inclosure 4.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, May 13, 1910.

YOUR EXCELLENCY: I duly laid before the King, my Sovereign, your note of the 8th instant, in which your excellency informs me of the feelings of profound sympathy of the President, Government, and people of the United States of America on the occasion of the deeply lamented death of His Late Majesty King Edward VII, and I have received the King's commands to convey to your excellency His Majesty's best thanks for this communication and for the kind sentiments to which you give expression, which are much appreciated by His Majesty and the royal family.

I have, etc.,

E. GREY.

File No. 24607/30.

Ambassador Reid to the Secretary of State.

1277.]

AMERICAN EMBASSY,
London, May 17, 1910.

SIR: I have the honor to transmit herewith a copy of a note received by me from Sir Edward Grey on the 14th instant, in reply to my note of the 12th instant, forwarding a copy of the resolution adopted by the House of Representatives on the announcement of the deeply lamented death of His Majesty King Edward VII.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

Ambassador Reid to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
London, May 12, 1910.

SIR: Under instructions from my Government I have the honor to inform you that the following resolution was adopted by the House of Representatives at Washington on the 7th instant.¹

I have, etc.,

WHITELAW REID.

[Inclosure 2.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, May 14, 1910.

YOUR EXCELLENCY: I laid before the King your excellency's note of the 12th instant, conveying a resolution adopted by the House of Representatives at Washington on the 7th instant, in which their condolences and sympathy are expressed on the occasion of the lamented death of His Late Majesty King Edward VII.

The King commands me to request that your excellency will convey to the House of Representatives His Majesty's sincere appreciation and warmest thanks for this kind message of sympathy in the irreparable loss which has fallen upon His Majesty, his royal house, and the British Empire.

I have, etc.,

E. GREY.

¹ Resolution printed, supra.

File No. 24607/22 A.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 18, 1910.

Secretary Knox instructs Ambassador Reid to send, in the name of the President of the United States, a handsome and suitable wreath for the funeral ceremonies of King Edward.

File No. 24607/41.

Ambassador Reid to the Secretary of State.

No. 1306.]

AMERICAN EMBASSY,
London, June 6, 1910.

SIR: With reference to your instruction No. 1295 of the 13th ultimo, conveying a resolution, adopted by the Senate on May 9, expressing their condolence and sympathy on the occasion of the death of His Late Majesty King Edward VII, I have the honor to inclose herewith copy of the foreign office reply, expressing, on behalf of the King, his grateful appreciation and sincere thanks for this kind message of sympathy.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, June 4, 1910.

YOUR EXCELLENCY: I duly laid before the King your excellency's note of the 25th ultimo conveying a resolution adopted by the Senate of the United States of America, on the 9th ultimo, expressing their condolences and sympathy on the occasion of the deeply lamented death of His Late Majesty King Edward VII.

The King commands me to request that your excellency will be so good as to take the necessary steps to convey to the United States Senate his grateful appreciation and sincere thanks for this kind message of sympathy in the irreparable loss which has been sustained by His Majesty, his royal house, and the British Empire.

I have, etc.,

(For Sir Edward Grey.)
F. A. CAMPBELL.

File No. 24607/48.

Ambassador Reid to the Secretary of State.

No. 1318.]

AMERICAN EMBASSY,
London, June 16, 1910.

SIR: I have the honor to inclose herewith copy of a note from the foreign office, dated the 10th instant, in reply to mine of the 2d instant inclosing an engrossed copy of the resolution of condolence passed by the Senate on the occasion of the death of His Majesty King Edward VII, which came inclosed in your unnumbered instruction of the 21st ultimo.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, June 10, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 2d instant, inclosing an engrossed copy of the resolution of condolence passed by the Senate of the United States on the occasion of the death of His Majesty King Edward VII.

I have the honor to inform your excellency that I have not failed to lay this copy before the King.

I have, etc.,

E. GREY.

**TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN
RELATING TO BOUNDARY WATERS BETWEEN THE UNITED
STATES AND CANADA.**

*Signed at Washington, January 11, 1909.**Ratification advised by the Senate, March 3, 1909.**Ratified by the President, April 1, 1910.**Ratified by Great Britain, March 31, 1910.**Ratifications exchanged at Washington, May 5, 1910.**Proclaimed, May 13, 1910.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, was concluded and signed by their respective plenipotentiaries at Washington on the eleventh day of January, one thousand nine hundred and nine, the original of which treaty is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous to prevent disputes regarding the use of boundary waters and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, have resolved to conclude a treaty in furtherance of these ends, and for that purpose have appointed as their respective plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O. M., his ambassador extraordinary and plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

PRELIMINARY ARTICLE.

For the purpose of this treaty boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

ARTICLE I.

The high contracting parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the high contracting parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the high contracting parties and the ships, vessels, and boats of both of the high contracting parties, and they shall be placed on terms of equality in the use thereof.

ARTICLE II.

Each of the high contracting parties reserves to itself or to the several State Governments on the one side and the Dominion or provincial governments on the other as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diversion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the high contracting parties intends by the foregoing provision to surrender any right, which it may have, to object to any interference with or diversions of

waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

ARTICLE III.

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the international joint commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States, on the one side, and the Government of the Dominion of Canada, on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbors, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

ARTICLE IV.

The high contracting parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary, unless the construction or maintenance thereof is approved by the aforesaid international joint commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

ARTICLE V.

The high contracting parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licenses authorized by the Dominion of Canada and the Province of Ontario.

So long as this treaty shall remain in force no diversion of the waters of the Niagara River above the Falls from the natural course and stream thereof shall be permitted except for the purposes and to the extent hereinafter provided.

The United States may authorize and permit the diversion within the State of New York of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of 20,000 cubic feet of water per second.

The United Kingdom, by the Dominion of Canada or the Province of Ontario, may authorize and permit the diversion within the Province of Ontario of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of 36,000 cubic feet of water per second.

The prohibitions of this article shall not apply to the diversion of water for sanitary or domestic purposes or for the service of canals for the purposes of navigation.

ARTICLE VI.

The high contracting parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries; but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country, so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the international joint commission.

ARTICLE VII.

The high contracting parties agree to establish and maintain an international joint commission of the United States and Canada composed of six commissioners, three on the part of the United States, appointed by the President thereof, and three on the part of the United Kingdom, appointed by His Majesty on the recommendation of the governor in council of the Dominion of Canada.

ARTICLE VIII.

This international joint commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters with respect to which under Articles III and IV of this treaty the approval of this commission is required, and in passing upon such cases the commission shall be governed by the following rules or principles which are adopted by the high contracting parties for this purpose:

The high contracting parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

1. Uses for domestic and sanitary purposes.
2. Uses for navigation, including the service of canals for the purposes of navigation.
3. Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may in the discretion of the commission be suspended in cases of temporary diversions along boundary waters at points where such equal division can not be made advantageously on account of local conditions and where such diversion does not diminish elsewhere the amount available for use on the other side.

The commission in its discretion may make its approval in any case conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, approved by the commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary, the commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the commissioners shall have power to render a decision. In case the commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the commissioners on each side to their own Government. The high contracting parties shall thereupon endeavor to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol and shall be communicated to the commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

ARTICLE IX.

The high contracting parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the international joint commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The international joint commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The commission shall make a joint report to both Governments in all cases in which all or a majority of the commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the commissioners on each side to their own Government.

ARTICLE X.

Any questions or matters of difference arising between the high contracting parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants may be referred for decision to the international joint commission by the consent of the two parties, it being understood that, on the part of the United States, any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the governor general in council. In each case so referred the said commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the high contracting

parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the commission failed to agree.

ARTICLE XI.

A duplicate original of all decisions rendered and joint reports made by the commission shall be transmitted to and filed with the Secretary of State of the United States and the Governor General of the Dominion of Canada, and to them shall be addressed all communications of the commission.

ARTICLE XII.

The international joint commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each commissioner, upon the first joint meeting of the commission after his appointment, shall, before proceeding with the work of the commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this treaty, and such declaration shall be entered on the records of the proceedings of the commission.

The United States and Canadian sections of the commission may each appoint a secretary, and these shall act as joint secretaries of the commission at its joint sessions, and the commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the commission incurred by it shall be paid in equal moieties by the high contracting parties.

The commission shall have power to administer oaths to witnesses and to take evidence on oath whenever deemed necessary in any proceeding, or inquiry, or matter within its jurisdiction under this treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the high contracting parties agree to adopt such legislation as may be appropriate and necessary to give the commission the powers above mentioned on each side of the boundary and to provide for the issue of subpoenas and for compelling the attendance of witnesses in proceedings before the commission. The commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

ARTICLE XIII.

In all cases where special agreements between the high contracting parties hereto are referred to in the foregoing articles, such agreements are understood and intended to include not only direct

agreements between the high contracting parties, but also any mutual arrangement between the United States and Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of the Dominion.

ARTICLE XIV.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible and the treaty shall take effect on the date of the exchange of its ratifications. It shall remain in force for five years, dating from the day of exchange of ratifications, and thereafter until terminated by 12 months' written notice given by either high contracting party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 11th day of January, in the year of our Lord one thousand nine hundred and nine.

ELIHU ROOT. [SEAL.]

JAMES BRYCE. [SEAL.]

And whereas the Senate of the United States by their resolution of March 3, 1909 (two-thirds of the Senators present concurring therein), did advise and consent to the ratification of the said treaty with the following understanding, to wit:

Resolved further, as a part of this ratification, That the United States approves this treaty with the understanding that nothing in this treaty shall be construed as affecting, or changing, any existing territorial or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Marys River at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's River, within its own territory, and further, that nothing in this treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and that this interpretation will be mentioned in the ratification of this treaty as conveying the true meaning of the treaty, and will, in effect, form part of the treaty.

And whereas the said understanding has been accepted by the Government of Great Britain, and the ratifications of the two Governments of the said treaty were exchanged in the city of Washington, on the 5th day of May, one thousand nine hundred and ten;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said treaty and the said understanding, as forming a part thereof, to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this thirteenth day of May in the year of our Lord one thousand nine hundred and ten,
 [SEAL.] and of the independence of the United States of America the one hundred and thirty-fourth.

WM. H. TAFT.

By the President:

P. C. KNOX,

Secretary of State.

PROTOCOL OF EXCHANGE.

On proceeding to the exchange of the ratifications of the treaty signed at Washington on January 11, 1909, between the United States and Great Britain, relating to boundary waters and questions arising along the boundary between the United States and the Dominion of Canada, the undersigned plenipotentiaries, duly authorized thereto by their respective Governments, hereby declare that nothing in this treaty shall be construed as affecting, or changing, any existing territorial or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Marys River at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Marys River, within its own territory; and further, that nothing in this treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and also that this declaration shall be deemed to have equal force and effect as the treaty itself and to form an integral part thereto.

The exchange of ratifications then took place in the usual form.

In witness whereof, they have signed the present protocol of exchange and have affixed their seals thereto.

Done at Washington this fifth day of May, one thousand nine hundred and ten.

PHILANDER C. KNOX. [SEAL.]

JAMES BRYCE. [SEAL.]

TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN RELATING TO THE BOUNDARY LINE IN PASSAMAQUODDY BAY.

Signed at Washington, May 21, 1910.

Ratification advised by the Senate, June 6, 1910.

Ratified by the President, July 13, 1910.

Ratified by Great Britain, June 23, 1910.

Ratifications exchanged at Washington, August 20, 1910.

Proclaimed, September 3, 1910.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of

India, fixing and defining the location of the international boundary line between the United States and the Dominion of Canada in Passamaquoddy Bay and to the middle of Grand Manan Channel, and removing all causes of dispute in connection therewith, was concluded and signed by their respective plenipotentiaries at Washington on the 21st day of May, one thousand nine hundred and ten, the original of which treaty is word for word as follows:

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of fixing and defining the location of the international boundary line between the United States and the Dominion of Canada in Passamaquoddy Bay and to the middle of Grand Manan Channel, and of removing all causes of dispute in connection therewith, have for that purpose resolved to conclude a treaty, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

Whereas by Article I of the treaty of April 11, 1908, between the United States and Great Britain, it was agreed that commissioners should be appointed for the purpose of more accurately defining and marking the international boundary line between the United States and the Dominion of Canada in the waters of Passamaquoddy Bay from the mouth of the St. Croix River to the Bay of Fundy, the description of the location of certain portions of such line being set forth in the aforesaid article, and it was agreed with respect to the remaining portion of the line that each of the high contracting parties shall present to the other within six months after the ratification of this treaty a full printed statement of the evidence, with certified copies of original documents referred to therein which are in its possession, and the arguments upon which it bases its contentions, with a view to arriving at an adjustment of the location of this portion of the line in accordance with the true intent and meaning of the provisions relating thereto of the treaties of 1783 and 1814 between the United States and Great Britain, and the award of the Commissioners appointed in that behalf under the treaty of 1814; it being understood that any action by either or both Governments or their representatives authorized in that behalf or by the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, shall be taken into consideration in determining their true intent and meaning;

And it was further agreed that if such agreement was reached between the parties the commissioners aforesaid should lay down and mark this portion of the boundary in accordance therewith and as provided in the said article, but it was provided that in the event of a failure to agree within a set period, the location of such portion of the line should be determined by reference to arbitration;

And whereas the time for reaching an agreement under the provisions of the aforesaid article expired before such agreement was reached but the high contracting parties are nevertheless desirous of arriving at an adjustment of the location of this portion of the line by agreement without resort to arbitration, and have already, pursuant to the provisions above quoted of Article I of the treaty aforesaid, presented each to the other a full printed statement of the evidence and of the arguments upon which the contentions of each are based, with a view to arriving at an adjustment of the location of the portion of the line referred to in accordance with the true intent and meaning of the provisions relating thereto in the treaties of 1783 and 1814 between the United States and Great Britain and the award of the commissioners appointed in that behalf under the treaty of 1814;

Now, therefore, upon the evidence and arguments so presented, and after taking into consideration all actions of the respective Governments and of their representatives authorized in that behalf and of the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, the high contracting parties hereby agree that the location of the international boundary line between the United States and the Dominion of Canada from a point in Passamaquoddy Bay accurately defined in the treaty between the United States and Great Britain of April 11, 1908, as lying between Treat Island and Friar Head, and extending thence through Passamaquoddy Bay and to the middle of Grand Manan Channel, shall run in a series of seven connected straight lines for the distances and in the directions as follows:

Beginning at the aforesaid point lying between Treat Island and Friar Head, thence

(1) South $8^{\circ} 29' 57''$ west true, for a distance of 1,152.6 meters; thence

(2) South $8^{\circ} 29' 34''$ east, 759.7 meters; thence

(3) South $23^{\circ} 56' 25''$ east 1,156.4 meters; thence

(4) South $0^{\circ} 23' 14''$ west, 1,040.0 meters; thence

(5) South $28^{\circ} 04' 26''$ east, 1,607.2 meters; thence

(6) South $81^{\circ} 48' 45''$ east, 2,616.8 meters to a point on the line which runs approximately north 40° east true, and which joins Sail Rock, off West Quoddy Head Light, and the southernmost rock lying off the southeastern point of the southern extremity of Campobello Island; thence

(7) South 47° east 5,100 meters to the middle of Grand Manan Channel.

The description of the last two portions of the line thus defined, viz, those numbered (6) and (7), is intended to replace the description of the lowest portion of the line, viz, that numbered (2), as defined in Article I of the treaty of April 11, 1908.

ARTICLE II.

The location of the boundary line as defined in the foregoing article shall be laid down and marked by the commissioners under Article I of the aforesaid treaty of April 11, 1908, in accordance with the provisions of such article, and the line so defined and laid

down shall be taken and deemed to be the international boundary extending between the points therein mentioned in Grand Manan Channel and Passamaquoddy Bay.

ARTICLE III.

It is further agreed by the high contracting parties that on either side of the hereinabove-described line southward from the point of its intersection with a line drawn true north from Lubec Channel Light, as at present established, either party shall have the right, upon two months' notice to the other, to improve and extend the channel to such depth as may by it be deemed desirable or necessary, and to a width not exceeding one hundred and fifteen (115) meters on each side of the boundary line, and from such point of intersection northerly through Lubec Narrows to the turning point in the boundary lying between Treat Island and Friar Head, either party shall have the right, upon two months' notice to the other, to improve and deepen the present channel to a width not exceeding sixty-five (65) meters on each side of the boundary line and to such depth as may by it be deemed desirable or necessary; it being understood, however, that each party shall also have the right to further widen and deepen the channel anywhere on its own side of the boundary.

ARTICLE IV.

This treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof, the respective plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

Done at Washington the twenty-first day of May, in the year of our Lord one thousand nine hundred and ten.

P. C. KNOX. [SEAL.]

JAMES BRYCE. [SEAL.]

And whereas the said treaty has been duly ratified on both parts and the ratifications of the two Governments were exchanged in the city of Washington on the twentieth day of August, one thousand nine hundred and ten;

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this third day of September, in the year of our Lord one thousand nine hundred and ten,
[SEAL.] and of the Independence of the United States of America the one hundred and thirty-fifth.

WM. H. TAFT.

By the President:

HUNTINGTON WILSON,
Acting Secretary of State.

THE NORTH ATLANTIC COAST FISHERIES ARBITRATION—DECISION OF THE PERMANENT COURT OF ARBITRATION AT THE HAGUE IN THE CASE SUBMITTED BY THE UNITED STATES AND GREAT BRITAIN.

PREAMBLE.

Whereas a special agreement between the United States of America and Great Britain, signed at Washington the 27th January, 1909, and confirmed by interchange of notes dated the 4th March, 1909, was concluded in conformity with the provisions of the general arbitration treaty between the United States of America and Great Britain, signed the 4th April, 1908, and ratified the 4th June, 1908;

And whereas the said special agreement for the submission of questions relating to fisheries on the North Atlantic coast under the general treaty of arbitration concluded between the United States and Great Britain on the 4th day of April, 1908, is as follows:

And whereas the parties to the said agreement have by common accord, in accordance with Article V, constituted as a tribunal of arbitration the following members of the permanent court at The Hague: Mr. H. Lammach, doctor of law, professor of the University of Vienna, aulic councillor, member of the upper house of the Austrian Parliament; His Excellency Jonkheer A. F. De Savornin Lohman, doctor of law, minister of state, former minister of the interior, member of the Second Chamber of the Netherlands; the honorable George Gray, doctor of laws, judge of the United States circuit court of appeals, former United States Senator; the right honorable Sir Charles Fitzpatrick, member of the Privy Council, doctor of laws, chief justice of Canada; the honorable Luis Maria Drago, doctor of law, former minister of foreign affairs of the Argentine Republic, member of the Law Academy of Buenos Aires;

And whereas the agents of the parties to the said agreement have duly and in accordance with the terms of the agreement communicated to this tribunal their cases, countercases, printed arguments, and other documents;

And whereas counsel for the parties have fully presented to this tribunal their oral arguments in the sittings held between the first assembling of the tribunal on 1st June, 1910, to the close of the hearings on 12th August, 1910;

Now, therefore, this tribunal having carefully considered the said agreement, cases, countercases, printed and oral arguments, and the documents presented by either side, after due deliberation makes the following decisions and awards:

QUESTION I.

To what extent are the following contentions, or either of them, justified?

It is contended on the part of Great Britain that the exercise of the liberty to take fish referred to in the said article, which the inhabitants of the United States have forever, in common with the subjects of His Britannic Majesty, is subject, without the consent of the United States, to reasonable regulation by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances,

¹ See *Foreign Relations*, 1909, p. 275.

or rules, as, for example, to regulations in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements to be used in the taking of fish or in the carrying on of fishing operations on such coasts; (3) any other matters of a similar character relating to fishing; such regulations being reasonable, as being, for instance—

(a) Appropriate or necessary for the protection and preservation of such fisheries and the exercise of the rights of British subjects therein and of the liberty which by the said Article I the inhabitants of the United States have therein in common with British subjects.

(b) Desirable on grounds of public order and morals.

(c) Equitable and fair as between local fishermen and the inhabitants of the United States exercising the said treaty liberty, and not so framed as to give unfairly an advantage to the former over the latter class.

It is contended on the part of the United States that the exercise of such liberty is not subject to limitations or restraints by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances, or regulations in respect of (1) the hours, days, or seasons when the inhabitants of the United States may take fish on the treaty coasts, or (2) the method, means, and implements used by them in taking fish or in carrying on fishing operations on such coasts, or (3) any other limitations or restraints of similar character—

(a) Unless they are appropriate and necessary for the protection and preservation of the common rights in such fisheries and the exercise thereof; and

(b) Unless they are reasonable in themselves and fair as between local fishermen and fishermen coming from the United States, and not so framed as to give an advantage to the former over the latter class; and

(c) Unless their appropriateness, necessity, reasonableness, and fairness be determined by the United States and Great Britain by common accord and the United States concurs in their enforcement.

Question I, thus submitted to the tribunal, resolves itself into two main contentions:

First. Whether the right of regulating reasonably the liberties conferred by the treaty of 1818 resides in Great Britain.

Second. And, if such right does so exist, whether such reasonable exercise of the right is permitted to Great Britain without the accord and concurrence of the United States.

The treaty of 1818 contains no explicit disposition in regard to the right of regulation, reasonable or otherwise; it neither reserves that right in express terms, nor refers to it in any way. It is therefore incumbent on this tribunal to answer the two questions above indicated by interpreting the general terms of Article I of the treaty, and more especially the words "the inhabitants of the United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind." This interpretation must be conformable to the general import of the instrument, the general intention of the parties to it, the subject matter of the contract, the expressions actually used, and the evidence submitted.

Now in regard to the preliminary question as to whether the right of reasonable regulation resides in Great Britain:

Considering that the right to regulate the liberties conferred by the treaty of 1818 is an attribute of sovereignty, and as such must be held to reside in the territorial sovereign, unless the contrary be provided; and considering that one of the essential elements of sovereignty is that it is to be exercised within territorial limits, and that, failing proof to the contrary, the territory is coterminous with the sovereignty, it follows that the burden of the assertion involved in the contention of the United States (viz, that the right to regulate does not reside independently in Great Britain, the territorial Sovereign) must fall on the United States. And for the purpose of sustaining this burden, the United States have put forward the following series of propositions, each one of which must be singly considered.

It is contended by the United States:

1. That the French right of fishery under the treaty of 1713 designated also as a liberty, was never subjected to regulation by Great Britain, and therefore the inference is warranted that the American liberties of fishery are similarly exempted.

The tribunal is unable to agree with this contention—

(a) Because although the French right designated in 1713 merely “an allowance,” (a term of even less force than that used in regard to the American fishery) was nevertheless converted, in practice, into an exclusive right, this concession on the part of Great Britain was presumably made because France, before 1713, claimed to be the sovereign of Newfoundland, and, in ceding the Island, had, as the American argument says, “reserved for the benefit of its subjects the right to fish and to use the strand.”

(b) Because the distinction between the French and American right is indicated by the different wording of the statutes for the observance of treaty obligations towards France and the United States, and by the British declaration of 1783.

(c) And also because this distinction is maintained in the treaty with France of 1904, concluded at a date when the American claims was approaching its present stage, and by which certain common rights of regulation are recognized to France.

For the further purpose of such proof it is contended by the United States—

2. That the liberties of fishery, being accorded to the inhabitants of the United States “forever,” acquire, by being in perpetuity and unilateral, a character exempting them from local legislation.

The tribunal is unable to agree with this contention—

(a) Because there is no necessary connection between the duration of a grant and its essential status in its relation to local regulation; a right granted in perpetuity may yet be subject to regulation, or, granted temporarily, may yet be exempted therefrom; or being reciprocal may yet be unregulated, or being unilateral may yet be regulated, as is evidenced by the claim of the United States that the liberties of fishery accorded by the reciprocity treaty of 1854 and the treaty of 1871 were exempt from regulation, though they were neither permanent nor unilateral;

(b) Because no peculiar character need be claimed for these liberties in order to secure their enjoyment in perpetuity, as is evidenced by the American negotiators in 1818 asking for the insertion of the words “forever.” International law in its modern development

recognizes that a great number of treaty obligations are not annulled by war, but at most suspended by it;

(c) Because the liberty to dry and cure is, pursuant to the terms of the treaty, provisional and not permanent, and is nevertheless, in respect of the liability to regulation, identical in its nature with, and never distinguished from, the liberty to fish.

For the further purpose of such proof the United States allege—

3. That the liberties of fishery granted to the United States constitute an international servitude in their favor over the territory of Great Britain, thereby involving a derogation from the sovereignty of Great Britain, the servient State, and that therefore Great Britain is deprived, by reason of the grant, of its independent right to regulate the fishery.

The tribunal is unable to agree with this contention—

(a) Because there is no evidence that the doctrine of international servitudes was one with which either American or British statesmen were conversant in 1818, no English publicists employing the term before 1818, and the mention of it in Mr. Gallatin's report being insufficient.

(b) Because a servitude in the French law, referred to by Mr. Gallatin, can, since the code, be only real and can not be personal (Code Civil, art. 686).

(c) Because a servitude in international law predicates an express grant of a sovereign right and involves an analogy to the relation of a *praedium dominans* and a *praedium serviens*; whereas by the treaty of 1818 one State grants a liberty to fish, which is not a sovereign right, but a purely economic right, to the inhabitants of another State.

(d) Because the doctrine of international servitude in the sense which is now sought to be attributed to it originated in the peculiar and now obsolete conditions prevailing in the Holy Roman Empire of which the *domini terræ* were not fully sovereigns; they holding territory under the Roman Empire, subject at least theoretically, and in some respects also practically, to the courts of that Empire; their right being, moreover, rather of a civil than of a public nature, partaking more of the character of *dominium* than of *imperium*, and therefore certainly not a complete sovereignty. And because in contradistinction to this quasi-sovereignty with its incoherent attributes acquired at various times, by various means, and not impaired in its character by being incomplete in any one respect or by being limited in favor of another territory and its possessor, the modern State, and particularly Great Britain, has never admitted partition of sovereignty, owing to the constitution of a modern State requiring essential sovereignty and independence.

(e) Because this doctrine being but little suited to the principle of sovereignty which prevails in States under a system of constitutional government such as Great Britain and the United States, and to the present international relations of sovereign States, has found little, if any, support from modern publicists. It could therefore in the general interest of the community of nations, and of the parties to this treaty, be affirmed by this tribunal only on the express evidence of an international contract.

(f) Because even if these liberties of fishery constituted an international servitude the servitude would derogate from the sovereignty

of the servient State only in so far as the exercise of the rights of sovereignty by the servient State would be contrary to the exercise of the servitude right by the dominant State; whereas it is evident that, though every regulation of the fishery is to some extent a limitation, as it puts limits to the exercise of the fishery at will, yet such regulations as are reasonable and made for the purpose of securing and preserving the fishery and its exercise for the common benefit, are clearly to be distinguished from those restrictions and "molestations," the annulment of which was the purpose of the American demands formulated by Mr. Adams in 1782, and such regulations consequently can not be held to be inconsistent with a servitude.

(g) Because the fishery to which the inhabitants of the United States were admitted in 1783, and again in 1818, was a regulated fishery, as is evidenced by the following regulations:

Act 15, Charles II, cap. 16, s. 7 (1663) forbidding "to lay any seine or other net in or near any harbor in Newfoundland, whereby to take the spawn or young fry of the Poor-John, or for any other use or uses, except for the taking of bait only," which had not been superseded either by the order in council of March 10, 1670, or by the statute 10 and XI, William III, cap. 25, 1699. The order in council provides expressly for the obligation "to submit unto and to observe all rules and orders as are now, or hereafter shall be established," an obligation which can not be read as referring only to the rules established by this very act, and having no reference to antecedent rules "as are now established." In a similar way the statute of 1699 preserves in force prior legislation, conferring the freedom of fishery only "as fully and freely as at any time heretofore." The order in council, 1670, provides that the admirals, who always were fishermen, arriving from an English or Welsh port, "see that His Majesty's rules and orders concerning the regulation of the fisheries are duly put in execution" (sec. 13). Likewise the act 10 and XI, William III, cap. 25 (1699) provides that the admirals do settle differences between the fishermen arising in respect of the places to be assigned to the different vessels. As to Nova Scotia, the proclamation of 1665 ordains that no one shall fish without license; that the licensed fishermen are obliged "to observe all laws and orders which now are made and published, or shall hereafter be made and published in this jurisdiction," and that they shall not fish on the Lord's day and shall not take fish at the time they come to spawn. The judgment of the chief justice of Newfoundland, October 26, 1820, is not held by the tribunal sufficient to set aside the proclamations referred to. After 1783, the statute 26, George III, cap. 26, 1786, forbids "the use, on the shores of Newfoundland, of seines or nets for catching cod by hauling on shore or taking into boat, with meshes less than 4 inches," a prohibition which can not be considered as limited to the bank fishery. The act for regulating the fisheries of New Brunswick, 1793, which forbids "the placing of nets or seines across any cove or creek in the province so as to obstruct the natural course of fish," and which makes specific provision for fishing in the harbor of St. John, as to the manner and time of fishing, can not be read as being limited to fishing from the shore. The act for regulating the fishing on the coast of Northumberland (1799) contains very elaborate dispositions concerning the fisheries in the bay

of Miramichi which were continued in 1823, 1829, and 1834. The statutes of Lower Canada, 1788 and 1807, forbid the throwing overboard of offal. The fact that these acts extend the prohibition over a greater distance than the first marine league from the shore may make them nonoperative against foreigners without the territorial limits of Great Britain, but is certainly no reason to deny their obligatory character for foreigners within these limits.

(h) Because the fact that Great Britain rarely exercised the right of regulation in the period immediately succeeding 1818 is to be explained by various circumstances and is not evidence of the non-existence of the right.

(i) Because the words "in common with British subjects" tend to confirm the opinion that the inhabitants of the United States were admitted to a regulated fishery.

(j) Because the statute of Great Britain, 1819, which gives legislative sanction to the treaty of 1818, provides for the making of "regulations with relation to the taking, drying, and curing of fish by inhabitants of the United States in 'common.'"

For the purpose of such proof it is further contended by the United States in this latter connection—

4. That the words "in common with British subjects" used in the treaty should not be held as importing a common subjection to regulation, but as intending to negative a possible pretention on the part of the inhabitants of the United States to liberties of fishery exclusive of the right of British subjects to fish.

The tribunal is unable to agree with this contention—

(a) Because such an interpretation is inconsistent with the historical basis of the American fishing liberty. The ground on which Mr. Adams founded the American right in 1782 was that the people then constituting the United States had always, when still under British rule, a part in these fisheries and that they must continue to enjoy their past right in the future. He proposed "that the subjects of His Britannic Majesty and the people of the United States shall continue to enjoy unmolested the right to take fish * * * where the inhabitants of both countries used, at any time heretofore, to fish." The theory of the partition of the fisheries, which by the American negotiators had been advanced with so much force, negatives the assumption that the United States could ever pretend to an exclusive right to fish on the British shores; and to insert a special disposition to that end would have been wholly superfluous.

(b) Because the words "in common" occur in the same connection in the treaty of 1818 as in the treaties of 1854 and 1871. It will certainly not be suggested that in these treaties of 1854 and 1871 the American negotiators meant by inserting the words "in common" to imply that without these words American citizens would be precluded from the right to fish on their own coasts and that, on American shores, British subjects should have an exclusive privilege. It would have been the very opposite of the concept of territorial waters to suppose that, without a special treaty provision, British subjects could be excluded from fishing in British waters. Therefore that can not have been the scope and the sense of the words "in common."

(c) Because the words "in common" exclude the supposition that American inhabitants were at liberty to act at will for the purpose of

taking fish, without any regard to the coexisting rights of other persons entitled to do the same thing, and because these words admit them only as members of a social community, subject to the ordinary duties binding upon the citizens of that community, as to the regulations made for the common benefit, thus avoiding the "bellum omnium contra omnes," which would otherwise arise in the exercise of this industry.

(d) Because these words are such as would naturally suggest themselves to the negotiators of 1818 if their intention had been to express a common subjection to regulations as well as a common right.

In the course of the argument it has also been alleged by the United States—

5. That the treaty of 1818 should be held to have entailed a transfer or partition of sovereignty in that it must in respect to the liberties of fishery be interpreted in its relation to the treaty of 1783, and that this latter treaty was an act of partition of sovereignty and of separation, and as such was not annulled by the War of 1812.

Although the tribunal is not called upon to decide the issue whether the treaty of 1783 was a treaty of partition or not, the questions involved therein having been set at rest by the subsequent treaty of 1818, nevertheless the tribunal could not forbear to consider the contention on account of the important bearing the controversy has upon the true interpretation of the treaty of 1818. In that respect the tribunal is of opinion—

(a) That the right to take fish was accorded as a condition of peace to a foreign people, wherefore the British negotiators refused to place the right of British subjects on the same footing with those of American inhabitants and, further, refused to insert the words also proposed by Mr. Adams, "continue to enjoy," in the second branch of article III of the treaty of 1783.

(b) That the treaty of 1818 was in different terms, and very different in extent from that of 1783, and was made for different considerations. It was, in other words, a new grant.

For the purpose of such proof, it is further contended by the United States—

6. That as contemporary commercial treaties contain express provisions for submitting foreigners to local legislation, and the treaty of 1818 contains no such provision, it should be held a contrario; that inhabitants of the United States exercising these liberties are exempt from regulation.

The tribunal is unable to agree with this contention—

(a) Because the commercial treaties contemplated did not admit foreigners to all and equal rights, seeing that local legislation excluded them from many rights of importance—e. g., that of holding land—and the purport of the provisions in question consequently was to preserve these discriminations; but no such discriminations existing in the common enjoyment of the fishery by American and British fishermen, no such provision was required.

(b) Because no proof is furnished of similar exemptions of foreigners from local legislation in default of treaty stipulations subjecting them thereto.

(c) Because no such express provision for subjection of the nationals of either party to local law was made either in this treaty in respect to their reciprocal admission to certain territories as agreed in article III

or in article III of the treaty of 1794, although such subjection was clearly contemplated by the parties.

For the purpose of such proof it is further contended by the United States—

7. That, as the liberty to dry and cure on the treaty coasts and to enter bays and harbors on the nontreaty coasts are both subjected to conditions, and the latter to specific restrictions, it should therefore be held that the liberty to fish should be subjected to no restrictions, as none are provided for in the treaty.

The tribunal is unable to apply the principle of "*expressio unius exclusio alterius*" to this case—

(a) Because the conditions and restrictions as to the liberty to dry and cure on the shore and to enter the harbors are limitations of the rights themselves, and not restrictions of their exercise. Thus the right to dry and cure is limited in duration, and the right to enter bays and harbors is limited to particular purposes;

(b) Because these restrictions of the right to enter bays and harbors applying solely to American fishermen must have been expressed in the treaty, whereas regulations of the fishery, applying equally to American and British, are made by right of territorial sovereignty.

For the purpose of such proof it has been contended by the United States—

8. That Lord Bathurst in 1815 mentioned the American right under the treaty of 1783 as a right to be exercised "at the discretion of the United States;" and that this should be held as to be derogatory to the claim of exclusive regulation by Great Britain.

But the tribunal is unable to agree with this contention—

(a) Because these words implied only the necessity of an express stipulation for any liberty to use foreign territory at the pleasure of the grantee, without touching any question as to regulation;

(b) Because in this same letter Lord Bathurst characterized this right as a policy "temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences from a military, naval, and commercial point of view;" so that it can not have been his intention to acknowledge the exclusion of British interference with this right;

(c) Because Lord Bathurst in his note to Gov. Sir C. Hamilton in 1819 orders the governor to take care that the American fishery on the coast of Labrador be carried on in the same manner as previous to the late war; showing that he did not interpret the treaty just signed as a grant conveying absolute immunity from interference with the American fishery right.

For the purpose of such proof it is further contended by the United States—

9. That on various other occasions following the conclusion of the treaty as evidenced by official correspondence, Great Britain made use of expressions inconsistent with the claim to a right of regulation.

The tribunal, unwilling to invest such expressions with an importance entitling them to affect the general question, considers that such conflicting or inconsistent expressions as have been exposed on either side are sufficiently explained by their relations to ephemeral phases of a controversy of almost secular duration, and should be held to be without direct effect on the principal and present issues.

Now, with regard to the second contention involved in question I, as to whether the right of regulation can be reasonably exercised by Great Britain without the consent of the United States:

Considering that the recognition of a concurrent right of consent in the United States would affect the independence of Great Britain, which would become dependent on the Government of the United States for the exercise of its sovereign right of regulation, and considering that such a codominium would be contrary to the constitution of both sovereign States; the burden of proof is imposed on the United States to show that the independence of Great Britain was thus impaired by international contract in 1818 and that a codominium was created.

For the purpose of such proof it is contended by the United States—

10. That a concurrent right to cooperate in the making and enforcement of regulations is the only possible and proper security to their inhabitants for the enjoyment of their liberties of fishery, and that such a right must be held to be implied in the grant of those liberties by the treaty under interpretation.

The tribunal is unable to accede to this claim on the ground of a right so implied—

(a) Because every State has to execute the obligations incurred by treaty *bona fide*, and is urged thereto by the ordinary sanctions of international law in regard to observance of treaty obligations. Such sanctions are, for instance, appeal to public opinion, publication of correspondence, censure by parliamentary vote, demand for arbitration with the odium attendant on a refusal to arbitrate, rupture of relations, reprisal, etc. But no reason has been shown why this treaty, in this respect, should be considered as different from every other treaty under which the right of a State to regulate the action of foreigners admitted by it on its territory is recognized.

(b) Because the exercise of such a right of consent by the United States would predicate an abandonment of its independence in this respect by Great Britain, and the recognition by the latter of a concurrent right of regulation in the United States. But the treaty conveys only a liberty to take fish in common, and neither directly nor indirectly conveys a joint right of regulation.

(c) Because the treaty does not convey a common right of fishery, but a liberty to fish in common. This is evidenced by the attitude of the United States Government in 1823 with respect to the relations of Great Britain and France in regard to the fishery.

(d) Because if the consent of the United States were requisite for the fishery, a general veto would be accorded them, the full exercise of which would be socially subversive and would lead to the consequence of an unregulatable fishery.

(e) Because the United States can not by assent give legal force and validity to British legislation.

(f) Because the liberties to take fish in British territorial waters and to dry and cure fish on land in British territory are in principle on the same footing, but in practice a right of cooperation in the elaboration and enforcement of regulations in regard to the latter liberty (drying and curing fish on land) is unrealizable.

In any event, Great Britain, as the local sovereign, has the duty of preserving and protecting the fisheries. In so far as it is necessary for that purpose, Great Britain is not only entitled, but obliged, to

provide for the protection and preservation of the fisheries, always remembering that the exercise of this right of legislation is limited by the obligation to execute the treaty in good faith. This has been admitted by counsel and recognized by Great Britain in limiting the right of regulation to that of reasonable regulation. The inherent defect of this limitation of reasonableness, without any sanction except in diplomatic remonstrance, has been supplied by the submission to arbitral award as to existing regulations in accordance with Articles II and III of the special agreement, and as to further regulation by the obligation to submit their reasonableness to an arbitral test in accordance with Article IV of the agreement.

It is finally contended by the United States—

That the United States did not expressly agree that the liberty granted to them could be subjected to any restriction that the grantor might choose to impose on the ground that in her judgment such restriction was reasonable. And that while admitting that all laws of a general character controlling the conduct of men within the territory of Great Britain are effective, binding, and beyond objection by the United States, and competent to be made upon the sole determination of Great Britain or her colony, without accountability to anyone whomsoever; yet there is somewhere a line beyond which it is not competent for Great Britain to go or beyond which she can not rightfully go, because to go beyond it would be an invasion of the right granted to the United States in 1818. That the legal effect of the grant of 1818 was not to leave the determination as to where that line is to be drawn to the uncontrolled judgment of the grantor, either upon the grantor's consideration as to what would be a reasonable exercise of its sovereignty over the British Empire, or upon the grantor's consideration of what would be a reasonable exercise thereof toward the grantee.

But this contention is founded on assumptions, which this tribunal can not accept for the following reasons, in addition to those already set forth:

(a) Because the line by which the respective rights of both parties accruing out of the treaty are to be circumscribed can refer only to the right granted by the treaty; that is to say, to the liberty of taking, drying, and curing fish by American inhabitants in certain British waters in common with British subjects, and not to the exercise of rights of legislation by Great Britain not referred to in the treaty.

(b) Because a line which would limit the exercise of sovereignty of a State within the limits of its own territory can be drawn only on the ground of express stipulation, and not by implication from stipulations concerning a different subject matter.

(c) Because the line in question is drawn according to the principle of international law that treaty obligations are to be executed in perfect good faith, therefore excluding the right to legislate at will concerning the subject matter of the treaty and limiting the exercise of sovereignty of the States bound by a treaty with respect to that subject matter to such acts as are consistent with the treaty.

(d) Because on a true construction of the treaty the question does not arise whether the United States agreed that Great Britain should retain the right to legislate with regard to the fisheries in her own territory, but whether the treaty contains an abdication by Great Britain of the right which Great Britain, as the sovereign power,

undoubtedly possessed when the treaty was made, to regulate those fisheries.

(e) Because the right to make reasonable regulations not inconsistent with the obligations of the treaty, which is all that is claimed by Great Britain, for a fishery which both parties admit requires regulation for its preservation, is not a restriction of or an invasion of the liberty granted to the inhabitants of the United States. This grant does not contain words to justify the assumption that the sovereignty of Great Britain upon its own territory was in any way affected, nor can words be found in the treaty transferring any part of that sovereignty to the United States. Great Britain assumes only duties with regard to the exercise of its sovereignty. The sovereignty of Great Britain over the coastal waters and territory of Newfoundland remains after the treaty as unimpaired as it was before, but from the treaty results an obligatory relation whereby the right of Great Britain to exercise its right of sovereignty by making regulations is limited to such regulations as are made in good faith and are not in violation of the treaty.

(f) Finally, to hold that the United States, the grantee of the fishing right, has a voice in the preparation of fishery legislation involves the recognition of a right in that country to participate in the internal legislation of Great Britain and her colonies, and to that extent would reduce these countries to a state of dependence.

While therefore unable to concede the claim of the United States as based on the treaty, this tribunal considers that such claim has been and is to some extent, conceded in the relations now existing between the two parties. Whatever may have been the situation under the treaty of 1818 standing alone, the exercise of the right of regulation inherent in Great Britain has been, and is, limited by the repeated recognition of the obligations already referred to, by the limitations and liabilities accepted in the special agreement, by the unequivocal position assumed by Great Britain in the presentation of its case before this tribunal, and by the consequent view of this tribunal that it would be consistent with all the circumstances, as revealed by this record, as to the duty of Great Britain, that she should submit the reasonableness of any future regulation to such an impartial arbitral test, affording full opportunity therefor, as is hereafter recommended under the authority of Article IV of the special agreement, whenever the reasonableness of any regulation is objected to or challenged by the United States in the manner, and within the time hereinafter specified in the said recommendation.

Now therefore this tribunal decides and awards as follows:

The right of Great Britain to make regulations without the consent of the United States, as to the exercise of the liberty to take fish referred to in Article I of the treaty of October 20, 1818, in the form of municipal laws, ordinances or rules of Great Britain, Canada, or Newfoundland is inherent to the sovereignty of Great Britain.

The exercise of that right by Great Britain is, however, limited by the said treaty in respect of the said liberties therein granted to the inhabitants of the United States in that such regulations must be made bona fide and must not be in violation of the said treaty.

Regulations which are (1) appropriate or necessary for the protection and preservation of such fisheries, or (2) desirable or necessary on grounds of public order and morals without unnecessarily

interfering with the fishery itself, and in both cases equitable and fair as between local and American fishermen, and not so framed as to give unfairly an advantage to the former over the latter class, are not inconsistent with the obligation to execute the treaty in good faith, and are therefore reasonable and not in violation of the treaty.

For the decision of the question whether a regulation is or is not reasonable, as being or not in accordance with the dispositions of the treaty and not in violation thereof, the treaty of 1818 contains no special provision. The settlement of differences in this respect that might arise thereafter was left to the ordinary means of diplomatic intercourse. By reason, however, of the form in which Question I is put, and by further reason of the admission of Great Britain by her counsel before this tribunal that it is not now for either of the parties to the treaty to determine the reasonableness of any regulation made by Great Britain, Canada or Newfoundland, the reasonableness of any such regulation, if contested, must be decided not by either of the parties, but by an impartial authority in accordance with the principles hereinabove laid down, and in the manner proposed in the recommendations made by the tribunal in virtue of Article IV of the agreement.

The tribunal further decides that Article IV of the agreement is, as stated by counsel of the respective parties at the argument, permanent in its effect, and not terminable by the expiration of the general arbitration treaty of 1908, between Great Britain and the United States.

In execution, therefore, of the responsibilities imposed upon this tribunal in regard to Articles II, III, and IV of the special agreement we hereby pronounce in their regard as follows:

AS TO ARTICLE II.

Pursuant to the provisions of this article, hereinbefore cited, either party has called the attention of this tribunal to acts of the other claimed to be inconsistent with the true interpretation of the treaty of 1818.

But in response to a request from the tribunal, recorded in protocol No. XXVI of 19th July, for an exposition of the grounds of such objections, the parties replied as reported in protocol No. XXX of 28th July to the following effect:

His Majesty's Government considered that it would be unnecessary to call upon the tribunal for an opinion under the second clause of Article II, in regard to the executive act of the United States of America in sending warships to the territorial waters in question, in view of the recognized motives of the United States of America in taking this action and of the relations maintained by their representatives with the local authorities. And this being the sole act to which the attention of this tribunal has been called by His Majesty's Government, no further action in their behalf is required from this tribunal under Article II.

The United States of America presented a statement in which their claim that specific provisions of certain legislative and executive acts of the Governments of Canada and Newfoundland were inconsistent with the true interpretation of the treaty of 1818 was based on the contention that these provisions were not "reasonable" within the meaning of Question I.

After calling upon this tribunal to express an opinion on these acts, pursuant to the second clause of Article II, the United States of America pointed out in that statement that under Article III any question regarding the reasonableness of any regulation might be referred by the tribunal to a commission of expert specialists, and expressed an intention of asking for such reference under certain circumstances.

The tribunal having carefully considered the counter-statement presented on behalf of Great Britain at the session of August 2, is of opinion that the decision on the reasonableness of these regulations requires expert information about the fisheries themselves and an examination of the practical effect of a great number of these provisions in relation to the conditions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, as contemplated by Article III. No further action on behalf of the United States is therefore required from this tribunal under Article II.

AS TO ARTICLE III.

As provided in Article III, hereinbefore cited and above referred to, "any question regarding the reasonableness of any regulation, or otherwise, which requires an examination of the practical effect of any provisions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, or which requires expert information about the fisheries themselves, may be referred by this tribunal to a commission of expert specialists; one to be designated by each of the parties hereto and the third, who shall not be a national or either party, to be designated by the tribunal."

The tribunal now therefore calls upon the parties to designate within one month their national commissioners for the expert examination of the questions submitted.

As the third nonnational commissioner this tribunal designates Dr. P. P. C. Hoek, scientific adviser for the fisheries of the Netherlands and if any necessity arises therefor a substitute may be appointed by the president of this tribunal.

After a reasonable time, to be agreed on by the parties, for the expert commission to arrive at a conclusion, by conference, or, if necessary, by local inspection, the tribunal shall, if convoked by the President at the request of either party, thereupon at the earliest convenient date, reconvene to consider the report of the commission, and if it be on the whole unanimous shall incorporate it in the award. If not on the whole unanimous—i. e., on all points which in the opinion of the tribunal are of essential importance—the tribunal shall make its award as to the regulations concerned after consideration of the conclusions of the expert commissioners and after hearing argument by counsel.

But while recognizing its responsibilities to meet the obligations imposed on it under Article III of the special agreement, the tribunal hereby recommends as an alternative to having recourse to a reconvention of this tribunal, that the parties should accept the unanimous opinion of the commission or the opinion of the nonnational commissioner on any points in dispute as an arbitral award rendered under the provisions of Chapter IV of The Hague convention of 1907.

AS TO ARTICLE IV.

Pursuant to the provisions of this article, hereinbefore cited, this tribunal recommends for the consideration of the parties the following rules and method of procedure under which all questions which may arise in the future regarding the exercise of the liberties above referred to may be determined in accordance with the principles laid down in this award:

1. All future municipal laws, ordinances or rules for the regulation of the fishery by Great Britain in respect of (1) the hours, days or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulation of a similar character shall be published in the London Gazette two months before going into operation.

Similar regulations by Canada or Newfoundland shall be similarly published in the Canada Gazette and the Newfoundland Gazette, respectively.

2. If the Government of the United States considers any such laws or regulations inconsistent with the treaty of 1818, it is entitled to so notify the Government of Great Britain within the two months referred to in rule No. 1.

3. Any law or regulation so notified shall not come into effect with respect to inhabitants of the United States until the permanent mixed fishery commission has decided that the regulation is reasonable within the meaning of this award.

4. Permanent mixed fishery commissions for Canada and Newfoundland, respectively, shall be established for the decision of such questions as to the reasonableness of future regulations, as contemplated by Article IV of the special agreement; these commissions shall consist of an expert national appointed by either party for five years. The third member shall not be a national of either party; he shall be nominated for five years by agreement of the parties, or failing such agreement within two months, he shall be nominated by Her Majesty the Queen of the Netherlands. The two national members shall be convoked by the Government of Great Britain within one month from the date of notification by the Government of the United States.

5. The two national members having failed to agree within one month, within another month the full commission, under the presidency of the umpire, is to be convoked by Great Britain. It must deliver its decision, if the two Governments do not agree otherwise, at the latest in three months. The umpire shall conduct the procedure in accordance with that provided in Chapter IV of the Convention for the Pacific Settlement of International Disputes, except in so far as herein otherwise provided.

6. The form of convocation of the commission, including the terms of reference of the question at issue, shall be as follows:

The provision hereinafter fully set forth of an act dated ———, published in the ——— has been notified to the Government of Great Britain by the Government of the United States, under date of ———, as provided by the award of The Hague Tribunal of September 7, 1910.

Pursuant to the provisions of that award the Government of Great Britain hereby convokes the permanent mixed fishery commission for ^(Canada) ~~(Newfoundland)~~, composed of _____ commissioner for the United States of America, and of _____ commissioner for ^(Canada) ~~(Newfoundland)~~, which shall meet at _____ and render a decision

within one month as to whether the provision so notified is reasonable and consistent with the treaty of 1818, as interpreted by the award of The Hague tribunal of September 7, 1910, and if not, in what respect it is unreasonable and inconsistent therewith.

Failing an agreement on this question within one month the commission shall so notify the Government of Great Britain in order that the further action required by that award may be taken for the decision of the above question.

The provision is as follows: _____

7. The unanimous decision of the two national commissioners, or the majority decision of the umpire and one commissioner, shall be final and binding.

QUESTION II.

Have the inhabitants of the United States, while exercising the liberties referred to in said article, a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States?

In regard to this question the United States claim in substance:

1. That the liberty assured to their inhabitants by the treaty plainly includes the right to use all the means customary or appropriate for fishing upon the sea, not only ships and nets and boats, but crews to handle the ships and the nets and the boats.

2. That no right to control or limit the means which these inhabitants shall use in fishing can be admitted unless it is provided in the terms of the treaty and no right to question the nationality or inhabitancy of the crews employed is contained in the terms of the treaty.

And Great Britain claims:

1. That the treaty confers the liberty to inhabitants of the United States exclusively.

2. That the Governments of Great Britain, Canada, or Newfoundland may, without infraction of the treaty, prohibit persons from engaging as fishermen in American vessels.

Now, considering (1) that the liberty to take fish is an economic right attributed by the treaty; (2) that it is attributed to inhabitants of the United States, without any mention of their nationality; (3) that the exercise of an economic right includes the right to employ servants; (4) that the right of employing servants has not been limited by the treaty to the employment of persons of a distinct nationality or inhabitancy; (5) that the liberty to take fish as an economic liberty refers not only to the individuals doing the manual act of fishing, but also to those for whose profit the fish are taken.

But considering that the treaty does not intend to grant to individual persons or to a class of persons the liberty to take fish in certain waters "in common"—that is to say, in company—with individual British subjects, in the sense that no law could forbid British subjects to take service on American fishing ships; (2) that the treaty intends to secure to the United States a share of the fisheries designated therein, not only in the interest of a certain class of individuals, but also in the interest of both the United States and Great Britain, as appears from the evidence and notably from the correspondence be-

tween Mr. Adams and Lord Bathurst in 1815; (3) that the inhabitants of the United States do not derive the liberty to take fish directly from the treaty, but from the United States Government as party to the treaty with Great Britain, and moreover exercising the right to regulate the conditions under which its inhabitants may enjoy the granted liberty; (4) that it is in the interest of the inhabitants of the United States that the fishing liberty granted to them be restricted to exercise by them and removed from the enjoyment of other aliens not entitled by this treaty to participate in the fisheries; (5) that such restrictions have been throughout enacted in the British statute of June 15, 1819, and that of June 3, 1824, to this effect, that no alien or stranger whatsoever shall fish in the waters designated therein, except in so far as by treaty thereto entitled, and that this exception will, in virtue of the treaty of 1818, as hereinabove interpreted by this award, exempt from these statutes American fishermen fishing by the agency of noninhabitant aliens employed in their service; (6) that the treaty does not affect the sovereign right of Great Britain as to aliens, noninhabitants of the United States, nor the right of Great Britain to regulate the engagement of British subjects while these aliens or British subjects are on British territory.

Now, therefore, in view of the preceding considerations, this tribunal is of opinion that the inhabitants of the United States while exercising the liberties referred to in the said article have a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States.

But in view of the preceding considerations the tribunal, to prevent any misunderstanding as to the effect of its award, expresses the opinion that noninhabitants employed as members of the fishing crews of United States vessels derive no benefit or immunity from the treaty and it is so decided and awarded.

QUESTION III.

Can the exercise by the inhabitants of the United States of the liberties referred to in the said article be subjected, without the consent of the United States, to the requirements of entry or report at customhouses or the payment of light or harbor or other dues or to any other similar requirement or condition or exaction?

The tribunal is of opinion as follows:

It is obvious that the liberties referred to in this question are those that relate to taking fish and to drying and curing fish on certain coasts as prescribed in the treaty of October 20, 1818. The exercise of these liberties by the inhabitants of the United States in the prescribed waters to which they relate has no reference to any commercial privileges which may or may not attach to such vessels by reason of any supposed authority outside the treaty, which itself confers no commercial privileges whatever upon the inhabitants of the United States or the vessels in which they may exercise the fishing liberty. It follows, therefore, that when the inhabitants of the United States are not seeking to exercise the commercial privileges accorded to trading vessels for the vessels in which they are exercising the granted liberty of fishing, they ought not to be subjected to requirements as to report and entry at customhouses that are only appropriate to the exercise of commercial privileges. The exercise of

the fishing liberty is distinct from the exercise of commercial or trading privileges and it is not competent for Great Britain or her colonies to impose upon the former exactions only appropriate to the latter. The reasons for the requirements enumerated in the case of commercial vessels have no relation to the case of fishing vessels.

We think, however, that the requirement that American fishing vessels should report, if proper conveniences and an opportunity for doing so are provided, is not unreasonable or inappropriate. Such a report, while serving the purpose of a notification of the presence of a fishing vessel in the treaty waters for the purpose of exercising the treaty liberty, while it gives an opportunity for a proper surveillance of such vessel by revenue officers, may also serve to afford to such fishing vessel protection from interference in the exercise of the fishing liberty. There should be no such requirement, however, unless reasonably convenient opportunity therefor be afforded in person or by telegraph, at a customhouse or to a customs official.

The tribunal is also of opinion that light and harbor dues, if not imposed on Newfoundland fishermen, should not be imposed on American fishermen while exercising the liberty granted by the treaty. To impose such dues on American fishermen only would constitute an unfair discrimination between them and Newfoundland fishermen and one inconsistent with the liberty granted to American fishermen to take fish, etc., "in common with the subjects of His Britannic Majesty."

Further, the tribunal considers that the fulfillment of the requirement as to report by fishing vessels on arrival at the fishery would be greatly facilitated in the interests of both parties by the adoption of a system of registration, and distinctive marking of the fishing boats of both parties, analogous to that established by Articles V to XIII, inclusive, of the international convention signed at The Hague, 8 May, 1882, for the regulation of the North Sea fisheries.

The tribunal therefore decides and awards as follows:

The requirement that an American fishing vessel should report, if proper conveniences for doing so are at hand, is not unreasonable, for the reasons stated in the foregoing opinion. There should be no such requirement, however, unless there be reasonably convenient opportunity afforded to report in person or by telegraph, either at a customhouse or to a customs official.

But the exercise of the fishing liberty by the inhabitants of the United States should not be subjected to the purely commercial formalities of report, entry, and clearance at a customhouse, nor to light, harbor, or other dues not imposed upon Newfoundland fishermen.

QUESTION IV.

Under the provision of the said article that the American fishermen shall be admitted to enter certain bays or harbors for shelter, repairs, wood, or water, and for no other purpose whatever, but that they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges thereby reserved to them, is it permissible to impose restrictions making the exercise of such privileges conditional upon the payment of light or harbor or other dues, or entering or reporting at customhouses, or any similar conditions?

The tribunal is of opinion that the provision in the first article of the treaty of October 20, 1818, admitting American fishermen to enter certain bays or harbors for shelter, repairs, wood, and water, and for no other purpose whatever, is an exercise in large measure of those duties of hospitality and humanity which all civilized nations impose upon themselves and expect the performance of from others. The enumerated purposes for which entry is permitted all relate to the exigencies in which those who pursue their perilous calling on the sea may be involved. The proviso which appears in the first article of the said treaty immediately after the so-called renunciation clause, was doubtless due to a recognition by Great Britain of what was expected from the humanity and civilization of the then leading commercial nation of the world. To impose restrictions making the exercise of such privileges conditional upon the payment of light, harbor, or other dues, or entering and reporting at customhouses, or any similar conditions, would be inconsistent with the grounds upon which such privileges rest, and therefore is not permissible.

And it is decided and awarded that such restrictions are not permissible.

It seems reasonable, however, in order that these privileges accorded by Great Britain on these grounds of hospitality and humanity should not be abused, that the American fishermen entering such bays for any of the four purposes aforesaid and remaining more than 48 hours therein should be required, if thought necessary by Great Britain or the Colonial Government, to report, either in person or by telegraph, at a customhouse or to a customs official, if reasonably convenient opportunity therefor is afforded.

And it is so decided and awarded.

QUESTION V.

From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbors" referred to in the said article?

In regard to this question, Great Britain claims that the renunciation applies to all bays generally, and the United States contend that it applies to bays of a certain class or condition.

Now, considering that the treaty used the general term "bays" without qualification, the tribunal is of opinion that these words of the treaty must be interpreted in a general sense as applying to every bay on the coast in question that might be reasonably supposed to have been considered as a bay by the negotiators of the treaty under the general conditions then prevailing, unless the United States can adduce satisfactory proof that any restrictions or qualifications of the general use of the term were or should have been present to their minds.

And for the purpose of such proof the United States contend:

1. That while a State may renounce the treaty right to fish in foreign territorial waters, it can not renounce the natural right to fish on the high seas.

But the tribunal is unable to agree with this contention. Because though a State can not grant rights on the high seas, it certainly can abandon the exercise of its right to fish on the high seas within certain definite limits. Such an abandonment was made with respect to their fishing rights in the waters in question by France and Spain in

1763. By a convention between the United Kingdom and the United States in 1846, the two countries assumed ownership over waters in Fuca Straits at distances from the shore as great as 17 miles.

The United States contend moreover:

2. That by the use of the term "liberty to fish" the United States manifested the intention to renounce the liberty in the waters referred to only in so far as that liberty was dependent upon or derived from a concession on the part of Great Britain, and not to renounce the right to fish in those waters where it was enjoyed by virtue of their natural right as an independent State.

But the tribunal is unable to agree with this contention:

(a) Because the term "liberty to fish" was used in the renunciatory clause of the treaty of 1818 because the same term had been previously used in the treaty of 1783 which gave the liberty; and it was proper to use in the renunciation clause the same term that was used in the grant with respect to the object of the grant; and, in view of the terms of the grant, it would have been improper to use the term "right" in the renunciation. Therefore the conclusion drawn from the use of the term "liberty" instead of the term "right" is not justified.

(b) Because the term "liberty" was a term properly applicable to the renunciation which referred not only to fishing in the territorial waters but also to drying and curing on the shore. This latter right was undoubtedly held under the provisions of the treaty and was not a right accruing to the United States by virtue of any principle of international law.

3. The United States also contend that the term "bays of His Britannic Majesty's dominions" in the renunciatory clause must be read as including only those bays which were under the territorial sovereignty of Great Britain.

But the tribunal is unable to accept this contention:

(a) Because the description of the coast on which the fishery is to be exercised by the inhabitants of the United States is expressed throughout the treaty of 1818 in geographical terms and not by reference to political control; the treaty describes the coast as contained between capes.

(b) Because to express the political concept of dominion as equivalent to sovereignty the word "dominion" in the singular would have been an adequate term and not "dominions" in the plural, this latter term having a recognized and well-settled meaning as descriptive of those portions of the earth which owe political allegiance to His Majesty—e. g., "His Britannic Majesty's Dominions beyond the Seas."

4. It has been further contended by the United States that the renunciation applies only to bays 6 miles or less in width "inter fauces terræ," those bays only being territorial bays, because the 3-mile rule is, as shown by this treaty, a principle of international law applicable to coasts and should be strictly and systematically applied to bays.

But the tribunal is unable to agree with this contention:

(a) Because admittedly the geographical character of a bay contains conditions which concern the interests of the territorial sovereign to a more intimate and important extent than do those connected with the open coast. Thus conditions of national and territorial

integrity, of defense, of commerce, and of industry are all vitally concerned with the control of the bays penetrating the national coast line. This interest varies, speaking generally, in proportion to the penetration inland of the bay; but as no principle of international law recognizes any specified relation between the concavity of the bay and the requirements for control by the territorial sovereignty, this tribunal is unable to qualify by the application of any new principle its interpretation of the treaty of 1818 as excluding bays in general from the strict and systematic application of the 3-mile rule; nor can this tribunal take cognizance in this connection of other principles concerning the territorial sovereignty over bays such as 10-mile or 12-mile limits of exclusion based on international acts subsequent to the treaty of 1818 and relating to coasts of a different configuration and conditions of a different character.

(b) Because the opinion of jurists and publicists quoted in the proceedings conduce to the opinion that speaking generally the 3-mile rule should not be strictly and systematically applied to bays.

(c) Because the treaties referring to these coasts, antedating the treaty of 1818, made special provisions as to bays, such as the treaties of 1686 and 1713 between Great Britain and France, and especially the treaty of 1778 between the United States and France. Likewise Jay's treaty of 1794, article 25, distinguished bays from the space "within cannon shot of the coast" in regard to the right of seizure in times of war. If the proposed treaty of 1806 and the treaty of 1818 contained no disposition to that effect, the explanation may be found in the fact that the first extended the marginal belt to 5 miles, and also in the circumstance that the American proposition of 1818 in that respect was not limited to "bays," but extended to "chambers formed by headlands" and to "5 marine miles from a right line from one headland to another," a proposition which in the times of the Napoleonic wars would have affected to a very large extent the operations of the British Navy.

(d) Because it has not been shown by the documents and correspondence in evidence here that the application of the 3-mile rule to bays was present to the minds of the negotiators in 1818 and they could not reasonably have been expected either to presume it or to provide against its presumption.

(e) Because it is difficult to explain the words in Article III of the treaty under interpretation "country * * * together with its bays, harbors, and creeks" otherwise than that all bays without distinction as to their width were, in the opinion of the negotiators, part of the territory.

(f) Because from the information before this tribunal it is evident that the 3-mile rule is not applied to bays strictly or systematically either by the United States or by any other power.

(g) It has been recognized by the United States that bays stand apart, and that in respect of them territorial jurisdiction may be exercised farther than the marginal belt in the case of Delaware Bay by the report of the United States Attorney General of May 19, 1793; and the letter of Mr. Jefferson to Mr. Genet of November 8, 1793, declares the bays of the United States generally to be, "as being landlocked, within the body of the United States."

5. In this latter regard it is further contended by the United States that such exceptions only should be made from the application of the

3-mile rule to bays as are sanctioned by conventions and established usage; that all exceptions for which the United States of America were responsible are so sanctioned; and that His Majesty's Government are unable to provide evidence to show that the bays concerned by the treaty of 1818 could be claimed as exceptions on these grounds either generally or, except possibly in one or two cases, specifically.

But the tribunal while recognizing that conventions and established usage might be considered as the basis for claiming as territorial those bays which on this ground might be called historic bays, and that such claim should be held valid in the absence of any principle of international law on the subject, nevertheless is unable to apply this, a contrario, so as to subject the bays in question to the 3-mile rule, as desired by the United States:

(a) Because Great Britain has during this controversy asserted a claim to these bays generally, and has enforced such claim specifically in statutes or otherwise, in regard to the more important bays such as Chaleurs, Conception, and Miramichi.

(b) Because neither should such relaxations of this claim, as are in evidence, be construed as renunciations of it; nor should omissions to enforce the claim in regard to bays as to which no controversy arose be so construed. Such a construction by this tribunal would not only be intrinsically inequitable but internationally injurious; in that it would discourage conciliatory diplomatic transactions and encourage the assertion of extreme claims in their fullest extent.

(c) Because any such relaxations in the extreme claim of Great Britain in its international relations are compensated by recognitions of it in the same sphere by the United States; notably in relations with France, for instance, in 1823, when they applied to Great Britain for the protection of their fishery in the bays on the western coast of Newfoundland, whence they had been driven by French war vessels on the ground of the pretended exclusive right of the French. Though they never asserted that their fishermen had been disturbed within the 3-mile zone, only alleging that the disturbance had taken place in the bays, they claimed to be protected by Great Britain for having been molested in waters which were, as Mr. Rush stated "clearly within the jurisdiction and sovereignty of Great Britain."

6. It has been contended by the United States that the words "coasts, bays, creeks, or harbors" are here used only to express different parts of the coast and are intended to express and be equivalent to the word "coast," whereby the 3 marine miles would be measured from the sinuosities of the coast and the renunciation would apply only to the waters of bays within 3 miles.

But the tribunal is unable to agree with this contention:

(a) Because it is a principle of interpretation that words in a document ought not to be considered as being without any meaning if there is not specific evidence to that purpose and the interpretation referred to would lead to the consequence, practically, of reading the words "bays, coasts, and harbors" out of the treaty; so that it would read "within 3 miles of any of the coasts," including therein the coasts of the bays and harbors.

(b) Because the word "therein" in the proviso—"restrictions necessary to prevent their taking, drying, or curing fish therein"—can refer only to "bays," and not to the belt of 3 miles along the coast, and can be explained only on the supposition that the words "bays

creeks, and harbors" are to be understood in their usual ordinary sense and not in an artificially restricted sense of bays within the 3-mile belt.

(c) Because the practical distinction for the purpose of this fishery between coasts and bays and the exceptional conditions pertaining to the latter has been shown from the correspondence and the documents in evidence, especially the treaty of 1783, to have been in all probability present to the minds of the negotiators of the treaty of 1818.

(d) Because the existence of this distinction is confirmed in the same article of the treaty by the proviso permitting the United States fishermen to enter bays for certain purposes.

(e) Because the word "coasts" is used in the plural form whereas the contention would require its use in the singular.

(f) Because the tribunal is unable to understand the term "bays" in the renunciatory clause in other than its geographical sense, by which a bay is to be considered as an indentation of the coast, bearing a configuration of a particular character easy to determine specifically, but difficult to describe generally.

The negotiators of the treaty of 1818 did probably not trouble themselves with subtle theories concerning the notion of "bays;" they most probably thought that everybody would know what was a bay. In this popular sense the term must be interpreted in the treaty. The interpretation must take into account all the individual circumstances which for any one of the different bays are to be appreciated, the relation of its width to the length of penetration inland, the possibility and the necessity of its being defended by the State in whose territory it is indented; the special value which it has for the industry of the inhabitants of its shores; the distance which it is secluded from the highways of nations on the open sea and other circumstances not possible to enumerate in general.

For these reasons the tribunal decides and awards:

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. All at other places the 3 marine miles are to be measured following the sinuosities of the coast.

But considering the tribunal can not overlook that this answer to Question V, although correct in principle and the only one possible in view of the want of a sufficient basis for a more concrete answer, is not entirely satisfactory as to its practical applicability, and that it leaves room for doubts and differences in practice. Therefore the tribunal considers it its duty to render the decision more practicable and to remove the danger of future differences by adjoining to it a recommendation in virtue of the responsibilities imposed by Article IV of the special agreement.

Considering, moreover, that in treaties with France, with the North German Confederation and the German Empire, and likewise in the North Sea convention, Great Britain has adopted for similar cases the rule that only bays of 10 miles width should be considered as those wherein the fishing is reserved to nationals. And that in the course of the negotiations between Great Britain and the United States a similar rule has been on various occasions proposed and adopted by Great Britain in instructions to the naval officers sta-

tioned on these coasts. And that though these circumstances are not sufficient to constitute this a principle of international law, it seems reasonable to propose this rule with certain exceptions, all the more that this rule with such exceptions has already formed the basis of an agreement between the two powers.

Now, therefore, this tribunal in pursuance of the provisions of Article IV hereby recommends for the consideration and acceptance of the high contracting parties the following rules and method of procedure for determining the limits of the bays hereinbefore enumerated.

1. In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn 3 miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed 10 miles.

2. In the following bays where the configuration of the coast and the local climatic conditions are such that foreign fishermen when within the geographic headlands might reasonably and bona fide believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Macquereau Point Light; for the Bay of Miramichi, the line from the light at Point Escuminac to the light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Anns Bay, in the Province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be 3 marine miles seaward from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peters Bays, the line from Cranberry Island Light to Green Island Light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatarie Island to the northeasterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Merasheen Island to the mainland.

Long Island and Bryer Island, on St. Marys Bay, in Nova Scotia, shall for the purpose of delimitation be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy, considered as a whole apart from its bays and creeks, or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce dated February 21, 1909, and March 4, 1909; or to Conception Bay, which was provided for by the decision of the

privy council in the case of the *Direct United States Cable Co. v. The Anglo-American Telegraph Co.*, in which decision the United States have acquiesced.

QUESTION VI.

Have the inhabitants of the United States the liberty under the said article or otherwise to take fish in the bays, harbors, and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands, or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands, or on the Magdalen Islands?

In regard to this question, it is contended by the United States that the inhabitants of the United States have the liberty, under Article I of the treaty, of taking fish in the bays, harbors, and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands and on the Magdalen Islands. It is contended by Great Britain that they have no such liberty.

Now, considering that the evidence seems to show that the intention of the parties to the treaty of 1818, as indicated by the records of the negotiations and by the subsequent attitude of the Governments was to admit the United States to such fishery, this tribunal is of opinion that it is incumbent on Great Britain to produce satisfactory proof that the United States are not so entitled under the treaty.

For this purpose Great Britain points to the fact that whereas the treaty grants to American fishermen liberty to take fish "on the coasts, bays, harbors, and creeks from Mount Joly on the southern coast of Labrador" the liberty is granted to the "coast" only of Newfoundland and to the "shore" only of the Magdalen Islands; and argues that evidence can be found in the correspondence submitted indicating an intention to exclude Americans from Newfoundland bays on the treaty coast, and that no value would have been attached at that time by the United States Government to the liberty of fishing in such bays because there was no cod fishery there as there was in the bays of Labrador.

But the tribunal is unable to agree with this contention:

(a) Because the words "part of the southern coast * * * from * * * to" and the words "western and northern coast * * * from * * * to," clearly indicate one uninterrupted coast line; and there is no reason to read into the words "coasts" a contradistinction to bays, in order to exclude bays. On the contrary, as already held in the answer to Question V, the words "liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland hereabove described," indicate that in the meaning of the treaty, as in all the preceding treaties relating to the same territories, the words "coast, coasts, harbors, bays," etc., are used, without attaching to the word "coast" the specific meaning of excluding bays. Thus, in the provision of the treaty of 1783 giving liberty "to take fish on such part of the coast of Newfoundland as British fishermen shall use," the word "coast" necessarily includes bays, because if the intention had

been to prohibit the entering of the bays for fishing the following words, "but not to dry or cure the same on that island," would have no meaning. The contention that in the treaty of 1783 the word "bays" is inserted lest otherwise Great Britain would have had the right to exclude the Americans to the 3-mile line is inadmissible, because in that treaty that line is not mentioned.

(b) Because the correspondence between Mr. Adams and Lord Bathurst also shows that during the negotiations for the treaty the United States demanded the former rights enjoyed under the treaty of 1783, and that Lord Bathurst in the letter of 30th October, 1815, made no objection to granting those "former rights" "placed under some modifications," which latter did not relate to the right of fishing in bays, but only to the "preoccupation of British harbors and creeks by the fishing vessels of the United States and the forcible exclusion of British subjects where the fishery might be most advantageously conducted," and "to the clandestine introduction of prohibited goods into the British colonies." It may be therefore assumed that the word "coast" is used in both treaties in the same sense, including bays.

(c) Because the treaty expressly allows the liberty to dry and cure in the unsettled bays, etc., of the southern part of the coast of Newfoundland, and this shows that, a fortiori, the taking of fish in those bays is also allowed; because the fishing liberty was a lesser burden than the grant to cure and dry, and the restrictive clauses never refer to fishing in contradistinction to drying, but always to drying in contradistinction to fishing. Fishing is granted without drying, never drying without fishing.

(d) Because there is not sufficient evidence to show that the enumeration of the component parts of the coast of Labrador was made in order to discriminate between the coast of Labrador and the coast of Newfoundland.

(e) Because the statement that there is no codfish in the bays of Newfoundland and that the Americans only took interest in the codfisheries is not proved; and evidence to the contrary is to be found in Mr. John Adams Journal of Peace Negotiations of November 25, 1782.

(f) Because the treaty grants the right to take fish of every kind, and not only codfish.

(g) Because the evidence shows that in 1823 the Americans were fishing in Newfoundland bays and that Great Britain when summoned to protect them against expulsion therefrom by the French did not deny their right to enter such bays.

Therefore this tribunal is of opinion that American inhabitants are entitled to fish in the bays, creeks, and harbors of the treaty coasts of Newfoundland and the Magdalen Islands, and it is so decided and awarded.

QUESTION VII.

Are the inhabitants of the United States whose vessels resort to the treaty coasts for the purpose of exercising the liberties referred to in Article I of the treaty of 1818 entitled to have for those vessels, when duly authorized by the United States in that behalf, the commercial privileges on the treaty coasts accorded by agreement or otherwise to United States trading vessels generally?

Now, assuming that commercial privileges on the treaty coasts are accorded by agreement or otherwise to United States trading vessels generally, without any exception, the inhabitants of the United States, whose vessels resort to the same coasts for the purpose of exercising the liberties referred to in Article I of the treaty of 1818, are entitled to have for those vessels when duly authorized by the United States in that behalf, the above-mentioned commercial privileges, the treaty containing nothing to the contrary. But they can not at the same time and during the same voyage exercise their treaty rights and enjoy their commercial privileges, because treaty rights and commercial privileges are submitted to different rules, regulations, and restraints.

For these reasons this tribunal is of opinion that the inhabitants of the United States are so entitled in so far as concerns this treaty, there being nothing in its provisions to disentitle them provided the treaty liberty of fishing, and the commercial privileges are not exercised concurrently, and it is so decided and awarded.

Done at The Hague, in the permanent court of arbitration, in triplicate original, September 7, 1910.

H. LAMMASCH.

A. F. DE SAVORNIN LOHMAN.

GEORGE GRAY.

C. FITZPATRICK.

LUIS M. DRAGO.

Signing the award, I state, pursuant to Article IX, clause 2, of the special agreement, my dissent from the majority of the tribunal in respect to the considerations and enacting part of the award as to Question V.

Grounds for this dissent have been filed at the international bureau of the permanent court of arbitration.

LUIS M. DRAGO.

GROUNDS FOR THE DISSENT TO THE AWARD ON QUESTION V BY DR.
 LUIS M. DRAGO.

Counsel for Great Britain have very clearly stated that according to their contention the territoriality of the bays referred to in the treaty of 1818 is immaterial, because whether they are or are not territorial the United States should be excluded from fishing in them by the terms of the renunciatory clause, which simply refers to "bays, creeks, or harbors of His Britannic Majesty's dominions" without any other qualification or description. If that were so, the necessity might arise of discussing whether or not a nation has the right to exclude another by contract or otherwise from any portion or portions of the high seas. But in my opinion the tribunal need not concern itself with such general question, the wording of the treaty being clear enough to decide the point at issue.

Article I begins with the statement that differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on "certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America," and then proceeds to locate the specific portions of the coast with its

corresponding indentations, in which the liberty of taking, drying, and curing fish should be exercised. The renunciatory clause, which the tribunal is called upon to construe, runs thus: "And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits." This language does not lend itself to different constructions. If the bays in which the liberty has been renounced are those "of His Britannic Majesty's dominions in America," they must necessarily be territorial bays, because in so far as they are not so considered they should belong to the high seas and consequently form no part of His Britannic Majesty's dominions, which, by definition, do not extend to the high seas. It can not be said, as has been suggested, that the use of the word "dominions," in the plural, implies a different meaning than would be conveyed by the same term as used in the singular, so that in the present case, "the British dominions in America" ought to be considered as a mere geographical expression, without reference to any right of sovereignty or "dominion." It seems to me, on the contrary, that "dominions," or "possessions," or "estates," or such other equivalent terms, simply designate the places over which the "dominion" or property rights are exercised. Where there is no possibility of appropriation or dominion, as on the high seas, we can not speak of dominions. The "dominions" extend exactly to the point which the "dominion" reaches; they are simply the actual or physical thing over which the abstract power or authority, the right, as given to the proprietor or the ruler, applies. The interpretation as to the territoriality of the bays as mentioned in the renunciatory clause of the treaty appears stronger when considering that the United States specifically renounced the "liberty," not the "right," to fish or to cure and dry fish. "The United States renounce, forever, any liberty heretofore enjoyed or claimed, to take, cure, or dry fish on, or within 3 marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America." It is well known that the negotiators of the treaty of 1783 gave a very different meaning to the terms "liberty" and "right," as distinguished from each other. In this connection Mr. Adams's journal may be recited. To this journal the British counter case refers in the following terms: "From an entry in Mr. Adams's journal it appears that he drafted an article by which he distinguished the right to take fish (both on the high seas and on the shores) and the liberty to take and cure fish on the land. But on the following day he presented to the British negotiators a draft in which he distinguishes between the 'right' to take fish on the high seas, and the 'liberty' to take fish on the 'coasts,' and to dry and cure fish on the land * * *. The British commissioner called attention to the distinction thus suggested by Mr. Adams and proposed that the word 'liberty' should be applied to the privileges both on the water and on the land. Mr. Adams thereupon rose up and made a vehement protest, as is recorded in his diary, against the suggestion that the United States enjoyed the fishing on the banks of Newfoundland by any other title than that of right." * * * The application of the word "liberty" to the coast fishery was left as Mr. Adams proposed. "The incident, proceeds the British case,

is of importance, since it shows that the difference between the two phrases was intentional." (British counter case, p. 17). And the British argument emphasizes again the difference. "More cogent still is the distinction between the words 'right' and 'liberty.' The word 'right' is applied to the sea fisheries, and the word 'liberty' to the shore fisheries. The history of the negotiations shows that this distinction was advisedly adopted." If then a liberty is a grant and not the recognition of a right; if, as the British case, counter case, and argument recognize, the United States had the right to fish in the open sea in contradistinction with the liberty to fish near the shores or portions of the shores, and if what has been renounced in the words of the treaty is the "liberty" to fish on, or within 3 miles of the bays, creeks, and harbors of His Britannic Majesty's dominions, it clearly follows that such liberty and the corresponding renunciation refers only to such portions of the bays which were under the sovereignty of Great Britain and not to such other portions, if any, as form part of the high seas.

And thus it appears that far from being immaterial the territoriality of bays is of the utmost importance. The treaty not containing any rule or indication upon the subject, the tribunal can not help a decision as to this point, which involves the second branch of the British contention that all so-called bays are not only geographical but wholly territorial as well, and subject to the jurisdiction of Great Britain. The situation was very accurately described on almost the same lines as above stated by the British Memorandum sent in 1870 by the Earl of Kimberley to Gov. Sir. John Young: "The right of Great Britain to exclude American fishermen from waters within 3 miles of the coasts is unambiguous, and, it is believed, uncontested. But there appears to be some doubt what are the waters described as within 3 miles of bays, creeks, or harbors. When a bay is less than 6 miles broad its waters are within the 3-mile limit, and therefore clearly within the meaning of the treaty; but when it is more than that breadth, the question arises whether it is a bay of Her Britannic Majesty's dominions. This is a question which has to be considered in each particular case with regard to international law and usage. When such a bay is not a bay of Her Majesty's dominions, the American fisherman shall be entitled to fish in it, except within 3 marine miles of the 'coast'; when it is a bay of Her Majesty's dominions they will not be entitled to fish within 3 miles of it—that is to say (it is presumed), within 3 miles of a line drawn from headland to headland." (American Case Appendix, p. 629.)

Now, it must be stated in the first place that there does not seem to exist any general rule of international law which may be considered final, even in what refers to the marginal belt of territorial waters. The old rule of the cannon shot, crystallized into the present 3 marine miles measured from low-water mark, may be modified at a later period, inasmuch as certain nations claim a wider jurisdiction and an extension has already been recommended by the Institute of International Law. There is an obvious reason for that. The marginal strip of territorial waters based originally on the cannon shot was founded on the necessity of the riparian State to protect itself from outward attack, by providing something in the nature of an insulating zone, which very reasonably should be extended with the accrued possibility of offense due to the wider range of modern ordnance. In

what refers to bays it has been proposed as a general rule (subject to certain important exceptions) that the marginal belt of territorial waters should follow the sinuosities of the coast more or less in the manner held by the United States in the present contention, so that the marginal belt being of 3 miles, as in the treaty under consideration, only such bays should be held as territorial as have an entrance not wider than 6 miles. (See Sir Thomas Barclay's report to Institute of International Law, 1894, p. 129, in which he also strongly recommends these limits.) This is the doctrine which Westlake, the eminent English writer on international law, has summed up in very few words: "As to bays," he says, "if the entrance to one of them is not more than twice the width of the littoral sea enjoyed by the country in question—that is, not more than 6 sea miles in the ordinary case, 8 in that of Norway, etc.—there is no access from the open sea to the bay except through the territorial water of that country, and the inner part of the bay will belong to that country no matter how widely it may expand. The line drawn from shore to shore at the part where, in approaching from the open sea, the width first contracts to that mentioned, will take the place of the line of low water, and the littoral sea belonging to the State will be measured outward from that line to the distance of 3 miles or more, proper to the State." (Westlake, vol. 1, p. 187.) But the learned author takes care to add: "But although this is the general rule it often meets with an exception in the case of bays which penetrate deep into the land and are called gulfs. Many of these are recognized by immemorial usage as territorial sea of the States into which they penetrate, notwithstanding that their entrance is wider than the general rule for bays would give as a limit for such appropriation." And he proceeds to quote as examples of this kind the Bay of Conception in Newfoundland, which he considers as wholly British, Chesapeake and Delaware Bays, which belong to the United States, and others. (Ibid., p. 188.) The Institute of International Law, in its annual meeting of 1894, recommended a marginal belt of 6 miles for the general line of the coast, and as a consequence established that for bays the line should be drawn up across at the nearest portion of the entrance toward the sea where the distance between the two sides do not exceed 12 miles. But the learned association very wisely added a proviso to the effect, "that bays should be so considered and measured unless a continuous and established usage has sanctioned a greater breadth." Many great authorities are agreed as to that. Counsel for the United States proclaimed the right to the exclusive jurisdiction of certain bays, no matter what the width of their entrance should be, when the littoral nation has asserted its right to take it into their jurisdiction upon reasons which go always back to the doctrine of protection. Lord Blackburn, one of the most eminent of English judges, in delivering the opinion of the Privy Council about Conception Bay in Newfoundland, adhered to the same doctrine when he asserted the territoriality of that branch of the sea, giving as a reason for such finding "that the British Government for a long period had exercised dominion over this bay and its claim had been acquiesced in by other nations, so as to show that the bay had been for a long time occupied exclusively by Great Britain, a circumstance which in the tribunals of any country would be very important." "And, moreover," he added,

"the British Legislature has, by acts of Parliament, declared it to be part of the British territory and part of the country made subject to the legislation of Newfoundland." (Direct United States Cable Co. v. The Anglo-American Telegraph Co., Law Reports, 2 Appeal Cases, 374.)

So it may be safely asserted that a certain class of bays, which might be properly called the historical bays, such as Chesapeake Bay and Delaware Bay in North America, and the great estuary of the River Plate in South America, form a class distinct and apart and undoubtedly belong to the littoral country, whatever be their depth of penetration and the width of their mouths, when such country has asserted its sovereignty over them, and particular circumstances such as geographical configuration, immemorial usage, and above all, the requirements of self-defense, justify such a pretension. The right of Great Britain over the bays of Conception, Chaleur, and Miramichi are of this description. In what refers to the other bays, as might be termed the common, ordinary bays, indenting the coasts, over which no special claim or assertion of sovereignty has been made, there does not seem to be any other general principle to be applied than the one resulting from the custom and usage of each individual nation as shown by their treaties and their general and time-honored practice.

The well-known words of Bynkershoek might be very appropriately recalled in this connection when so many and divergent opinions and authorities have been recited: "The common law of nations," he says, "can only be learned from reason and custom. I do not deny that authority may add weight to reason, but I prefer to seek it in a constant custom of concluding treaties in one sense or another and in examples that have occurred in one country or another." (*Questions Jure Publici*, vol. 1, cap. 3.)

It is to be borne in mind in this respect that the tribunal has been called upon to decide as the subject matter of this controversy the construction to be given to the fishery treaty of 1818 between Great Britain and the United States. And so it is that from the usage and the practice of Great Britain in this and other like fisheries and from treaties entered into by them with other nations as to fisheries, may be evolved the right interpretation to be given to the particular convention which has been submitted. In this connection the following treaties may be recited:

Treaty between Great Britain and France. 2d August, 1839. It reads as follows:

ARTICLE IX. The subjects of Her Britannic Majesty shall enjoy the exclusive right of fishery within the distance of 3 miles from low-water mark along the whole extent of the coasts of the British Islands.

It is agreed that the distance of 3 miles fixed as the general limit for the exclusive right of fishery upon the coasts of the two countries shall, with respect to bays the mouths of which do not exceed 10 miles in width be measured from a straight line drawn from headland to headland.

ART. X. It is agreed and understood that the miles mentioned in the present convention are geographical miles, whereof 60 make a degree of latitude. (*Hertslett's Treaties and Conventions*, vol. V, p. 89.)

Regulations between Great Britain and France. 24th May, 1843.

ARTICLE II. The limits within which the general right of fishery is exclusively reserved to the subjects of the two kingdoms, respectively, are fixed (with the exception of those in Granville Bay) at 3 miles distance from low-water mark.

With respect to bays the mouths of which do not exceed 10 miles in width, the 3-mile distance is measured from a straight line drawn from headland to headland.

ART. III. The miles mentioned in the present regulations are geographical miles, of which 60 make a degree of latitude. (Hertslett, vol. VI, p. 416.)

Treaty between Great Britain and France. November 11, 1867.

ARTICLE I. British fishermen shall enjoy the exclusive right of fishery within the distance of 3 miles from low-water mark along the whole extent of the coasts of the British Islands.

The distance of 3 miles fixed as the general limit for the exclusive right of fishery upon the coasts of the two countries shall, with respect to bays the mouths of which do not exceed 10 miles in width, be measured from a straight line drawn from headland to headland.

The miles mentioned in the present convention are geographical miles, whereof 60 make a degree of latitude. (Hertslett's Treaties, vol. XII, p. 1126, British Case App., p. 38.)

Great Britain and North German Confederation. British notice to fishermen by the board of trade. Board of trade, November, 1868.

Her Majesty's Government and the North German Confederation having come to an agreement respecting the regulations to be observed by British fishermen fishing off the coasts of the North German Confederation, the following notice is issued for the guidance and warning of British fishermen:

1. The exclusive fishery limits of the German Empire are designated by the Imperial Government as follows: That tract of the sea which extends to a distance of 3 sea miles from the extremest limits which the ebb leaves dry of the German North Sea coast of the German Islands or flats lying before it, as well as those bays and incurvations of the coast which are 10 sea miles or less in breadth reckoned from the extremest points of the land and the flats, must be considered as under the territorial sovereignty of North Germany. (Hertslett's Treaties, vol. XIV, p. 1055.)

Great Britain and German Empire. British board of trade, December, 1874.

(Same recital referring to an arrangement entered into between Her Britannic Majesty and the German Government.)

Then the same articles follow with the alteration of the words "German Empire" for "North Germany." (Hertslett's, vol. XIV, p. 1058.)

Treaty between Great Britain, Belgium, Denmark, France, Germany, and the Netherlands for regulating the police of the North Sea fisheries, May 6, 1882.

II. Les pêcheurs nationaux jouiront du droit exclusif de pêche dans le rayon de 3 milles, à partir de la laisse de basse mer, le long de toute l'étendue des côtes de leurs pays respectifs, ainsi que des îles et des bancs qui en dépendent.

Pour les baies le rayon de 3 milles sera mesuré à partir d'une ligne droite, tirée, en travers de la baie, dans la partie la plus rapprochée de l'entrée, au premier point où l'ouverture n'excédera pas 10 milles. (Hertslett, vol. XV, p. 794.)

British order in council, October 23, 1877.

Prescribes the obligation of not concealing or effacing numbers or marks on boats employed in fishing or dredging for purposes of sale on the coasts of England, Wales, Scotland, and the islands of Guernsey, Jersey, Alderney, Sark, and Man, and not going outside—

(a) The distance of 3 miles from low-water mark along the whole extent of the said coasts.

(b) In cases of bays less than 10 miles wide the line joining the headlands of said bays. (Hertslett's, vol. XIV, p. 1032.)

To this list may be added the unratified treaty of 1888 between Great Britain and the United States which is so familiar to the tribunal. Such unratified treaty contains an authoritative interpretation of the convention of October 20, 1818, sub-judice: "The 3 marine miles mentioned in Article I of the convention of October 20, 1818, shall be measured seaward from low-water mark; but at every bay, creek, or harbor not otherwise specifically provided for in this treaty such 3 marine miles shall be measured seaward from a straight line drawn across the bay, creek, or harbor in the part nearest the entrance at the first point where the width does not exceed 10 marine miles," which is recognizing the exceptional bays as afore-said and laying the rule for the general and common bays.

It has been suggested that the treaty of 1818 ought not to be studied as hereabove in the light of any treaties of a later date, but rather be referred to such British international conventions as preceded it and clearly illustrate, according to this view, what were, at the time, the principles maintained by Great Britain as to their sovereignty over the sea and over the coast and the adjacent territorial waters. In this connection the treaties of 1686 and 1713 with France and of 1763 with France and Spain have been recited and offered as examples also of exclusion of nations by agreement from fishery rights on the high seas. I can not partake of such a view. The treaties of 1686, 1713, and 1763 can hardly be understood with respect to this, otherwise than as examples of the wild, obsolete claims over the common ocean which all nations have of old abandoned with the progress of an enlightened civilization. And if certain nations accepted long ago to be excluded by convention from fishing on what is to-day considered a common sea, it is precisely because it was then understood that such tracts of water, now free and open to all, were the exclusive property of a particular power, who, being the owners, admitted or excluded others from their use. The treaty of 1818 is in the meantime one of the few which mark an era in the diplomacy of the world. As a matter of fact it is the very first which commuted the rule of the cannon shot into the 3 marine miles of coastal jurisdiction. And it really would appear unjustified to explain such historic document by referring it to international agreements of 100 and 200 years before, when the doctrine of Selden's *Mare Clausum* was at its height and when the coastal waters were fixed at such distances as 60 miles, or 100 miles, or two days' journey from the shore, and the like. It seems very appropriate, on the contrary, to explain the meaning of the treaty of 1818 by comparing it

with those which immediately followed and established the same limit of coastal jurisdiction. As a general rule a treaty of a former date may be very safely construed by referring it to the provisions of like treaties made by the same nation on the same matter at a later time. Much more so when, as occurs in the present case, the later conventions, with no exception, starting from the same premise of the 3 miles coastal jurisdiction, arrive always to an uniform policy and line of action in what refers to bays. As a matter of fact all authorities approach and connect the modern fishery treaties of Great Britain and refer them to the treaty of 1818. The second edition of Kluber, for instance, quotes in the same sentence the treaties of October 20, 1818, and August 2, 1839, as fixing a distance of 3 miles from low-water mark for coastal jurisdiction. And Fiori, the well-known Italian jurist, referring to the same marine miles of coastal jurisdiction, says: "This rule, recognized as early as the treaty of 1818 between the United States and Great Britain, and that between Great Britain and France in 1839, has again been admitted in the treaty of 1867." (*Nouveau Droit International Public*, Paris, 1885, sec. 803.)

This is only a recognition of the permanency and the continuity of States. The treaty of 1818 is not a separate fact unconnected with the later policy of Great Britain. Its negotiators were not parties to such international convention, and their powers disappeared as soon as they signed the document on behalf of their countries. The parties to the treaty of 1818 were the United States and Great Britain, and what Great Britain meant in 1818 about bays and fisheries, when they for the first time fixed a marginal jurisdiction of 3 miles, can be very well explained by what Great Britain, the same permanent political entity, understood in 1839, 1843, 1867, 1874, 1878, and 1882, when fixing the very same zone of territorial waters. That a bay in Europe should be considered as different from a bay in America and subject to other principles of international law can not be admitted in the face of it. What the practice of Great Britain has been outside the treaties is very well known to the tribunal, and the examples might be multiplied of the cases in which that nation has ordered its subordinates to apply to the bays on these fisheries the 10-mile entrance rule or the 6 miles according to the occasion. It has been repeatedly said that such have been only relaxations of the strict right, assented to by Great Britain in order to avoid friction on certain special occasions. That may be. But it may also be asserted that such relaxations have been very many and that the constant, uniform, never contradicted, practice of concluding fishery treaties from 1839 down to the present day, in all of which the 10 miles entrance bays are recognized, is the clear sign of a policy. This policy has but very lately found a most public, solemn and unequivocal expression. "On a question asked in Parliament on the 21st of February, 1907, says Pitt Cobbett, a distinguished English writer, with respect to the Moray Firth case, it was stated that, according to the view of the foreign office, the admiralty, the colonial office, the board of trade, and the board of agriculture and fisheries, the term "territorial waters" was deemed to include waters extending from the coast line of any part of the territory of a State to 3 miles from the low-water mark of such coast line, and the waters of all bays, the

entrance to which is not more than 6 miles, and of which the entire land boundary forms part of the territory of the same State. (Pitt Cobbett Cases and Opinions on International Law, vol. 1, p. 143.)

Is there a contradiction between these 6 miles and the 10 miles of the treaties just referred to? Not at all. The 6 miles are the consequence of the 3 miles marginal belt of territorial waters in their coincidence from both sides at the inlets of the coast and the 10 miles far from being an arbitrary measure are simply an extension, a margin given for convenience to the strict 6 miles with fishery purposes. Where the miles represent 60 to a degree in latitude the 10 miles are besides the sixth part of the same degree. The American Government, in reply to the observations made to Secretary Bayard's memorandum of 1888, said very precisely: "The width of 10 miles was proposed not only because it had been followed in conventions between many other powers, but also because it was deemed reasonable and just in the present case; this Government, recognizing the fact that while it might have claimed a width of six miles as a basis of settlement, fishing within bays and harbors only slightly wider would be confined to areas so narrow as to render it practically valueless and almost necessarily expose the fishermen to constant danger of carrying their operations into forbidden waters." (British Case Appendix, p. 416.) And Prof. John Bassett Moore, a recognized authority on international law, in a communication addressed to the Institute of International Law, said very forcibly: "Since you observe that there does not appear to be any convincing reason to prefer the 10-mile line in such a case to that of double 3 miles, I may say that there have been supposed to exist reasons both of convenience and of safety. The 10-mile line has been adopted in the cases referred to as a practical rule. The transgression of an encroachment upon territorial waters by fishing vessels is generally a grave offense, involving in many instances the forfeiture of the offending vessel, and it is obvious that the narrower the space in which it is permissible to fish the more likely the offense is to be committed. In order, therefore, that fishing may be practicable and safe and not constantly attended with the risk of violating territorial waters, it has been thought to be expedient not to allow it where the extent of free waters between the 3 miles drawn on each side of the bay is less than 4 miles. This is the reason of the 10-mile line. Its intention is not to hamper or restrict the right to fish, but to render its exercise practicable and safe. When fishermen fall in with a shoal of fish, the impulse to follow it is so strong as to make the possibilities of transgression very serious within narrow limits of free waters. Hence it has been deemed wiser to exclude them from space less than 4 miles each way from the forbidden lines. In spaces less than this operations are not only hazardous, but so circumscribed as to render them of little practical value." (Annuaire de l'Institut de Droit International, 1894, p. 146.)

So the use of the 10-mile bays so constantly put into practice by Great Britain in its fishery treaties has its root and connection with the marginal belt of 3 miles for the territorial waters. So much so that the tribunal having decided not to adjudicate in this case the 10-miles entrance to the bays of the treaty of 1818, this will be the only one exception in which the 10 miles of the bays do not follow as

a consequence the strip of 3 miles of territorial waters, the historical bays and estuaries always excepted.

And it is for that reason that an usage so firmly and for so long a time established ought, in my opinion, be applied to the construction of the treaty under consideration, much more so, when custom, one of the recognized sources of law, international as well as municipal, is supported in this case by reason and by the acquiescence and the practice of many nations.

The tribunal has decided that "in case of bays the 3 miles (of the treaty) are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration characteristic of a bay. At all other places the 3 miles are to be measured following the sinuosities of the coast." But no rule is laid out or general principle evolved for the parties to know what the nature of such configuration is, or by what methods the points should be ascertained from which the bay should lose the characteristics of such. There lies the whole contention and the whole difficulty, not satisfactorily solved, to my mind, by simply recommending, without the scope of the award and as a system of procedure for resolving future contestations under Article IV of the treaty of arbitration, a series of lines, which practical as they may be supposed to be, can not be adopted by the parties without concluding a new treaty.

These are the reasons for my dissent, which I much regret, on Question V.

Done at The Hague, September 7, 1910.

LUIS M. DRAGO.

REPORT OF THE AGENT OF THE UNITED STATES.

Mr. Anderson to the Secretary of State.

WASHINGTON, November 14, 1910.

The undersigned, agent of the United States in the North Atlantic coast fisheries arbitration recently held at The Hague, has the honor to submit his report as follows:

The general arbitration treaty of April 4, 1908, between the United States and Great Britain requires that in each case submitted to arbitration thereunder the parties shall conclude a special agreement defining clearly the matter in dispute, the scope and power of the arbitrators, and the periods to be fixed for the formation of the arbitration tribunal and the several stages of procedure.

In this case, such a special agreement was signed on the 27th day of January, 1909, confirmed by the Senate on the 18th of February following, and formally ratified by both Governments on the 4th of March, 1909. In compliance with the requirements of the general treaty of arbitration, the special agreement sets out, first, a series of seven questions to be answered by the tribunal relating to the interpretation of the true intent and meaning of Article I of the treaty of October 20, 1818, between the United States and Great Britain; and it provides that the tribunal of arbitration shall be chosen in accordance with the provisions of Article XLV of The Hague convention of October 18, 1907, for the pacific settlement of international disputes; and provides further that when not inconsistent with any particular

provision of the special agreement, the provisions of that convention shall govern the proceedings in the case. The special agreement also contains a series of provisions covering the presentation of the case and the procedure before the tribunal.

The article of The Hague convention, in accordance with which the members of the tribunal were required to be chosen, provides that the tribunal shall be composed of five members selected from the list of the members of the permanent court at The Hague, and that their selection shall be made by direct agreement of the parties if possible, and in case of failure to agree other methods of selection are provided for. In this case a direct agreement was reached, and the members of the tribunal selected were as follows:

Dr. H. Lammasch, doctor of law, professor of the University of Vienna, aulic councillor, member of the upper house of the Austrian Parliament.

His Excellency Jonkheer A. F. de Savornin Lohman, doctor of law, minister of state, former minister of the interior, member of the second chamber of the Netherlands.

The Hon. George Gray, judge of the United States circuit court of appeals.

The Right Hon. Sir Charles Fitzpatrick, doctor of law, chief justice of Canada.

Mr. Luis Maria Drago, doctor of law, former minister of foreign affairs of the Argentine Republic.

The names of the agents and of the counsel appearing before the tribunal on each side are set forth in the protocol of its first meeting, a copy of which is hereto annexed.

Pursuant to the provisions of the special agreement, the printed case of each Government, together with copies of the evidence upon which it relied, was served upon the other within the period of seven months after the exchange of ratifications confirming the agreement, such service being made on the 4th day of October, 1909, the last day of such period; and on each side a counter-case in answer to the case was served upon the other side on the 21st day of February last, to which date the period for the service of such counter-case was extended by mutual consent. So, also, a printed argument on each side was delivered to the other on the 16th day of May last, in accordance with an arrangement agreed upon for the mutual convenience of both parties, which slightly modified the terms of the special agreement in that respect. Copies of these cases, counter-cases, and arguments were also delivered to the members of the tribunal in accordance with the requirements of the special agreement.

The determination of the true intent and meaning of Article I of the treaty of 1818 with reference to the questions submitted for the decision of the tribunal required an examination not only of the language of the treaty but also of the events leading up to its negotiation and signature and of the actions taken by either Government since the date of the treaty having a bearing upon its interpretation. The evidence presented in support of the contentions of the United States upon these questions, therefore, covered the entire period from the date of the special agreement submitting these questions to arbitration back to the treaty of peace of 1783, at the close of the Revolution, and some features of the controversy necessitated the introduction of a considerable amount of evidence even prior to that date.

The case of the United States, which was prepared by the agent, presented the contentions of the United States in the form of a brief on the facts, reviewing chronologically the course of events leading up to the treaty of 1818 and the subsequent governmental actions

on each side having a bearing upon its interpretation, and was based upon documentary evidence presented in the appendix to the case of the United States, which comprised upwards of 1,300 printed pages, and included all the pertinent and material diplomatic correspondence between the United States and Great Britain and the correspondence between Great Britain and her colonies and her diplomatic representatives, in so far as it was available to the United States; also all legislative and executive acts on the part of the United States and of Great Britain and the British colonies bearing upon the questions submitted, together with the available records of the negotiations leading up to the treaties of 1783, 1814, 1818, 1854, 1871, and the unratified treaty of 1888, and the *modus vivendi* entered into in 1885, in 1888, in 1906, in 1907, and in 1908 between Great Britain and the United States.

The counter-case of the United States, which also was prepared by the agent, presented in the form of a brief on the facts the evidence on the part of the United States in support of its contentions in reply to the evidence presented in the British case, dealing separately with each of the seven questions submitted for decision, the documentary evidence relied upon being printed in an accompanying appendix covering about 700 printed pages.

The documentary evidence presented in the British case and counter-case was similar in character to that presented on the part of the United States, and to a considerable extent identical with it, and about equally voluminous. The method of dealing with such evidence, however, in the British case and counter-case was somewhat different from that followed in the case and counter-case of the United States, a large part of the British pleadings being devoted to argument on the law and citations of authorities and precedents, in distinction from the mere argumentative presentation of the facts and evidence relied upon, which was the course adopted in the case and counter-case of the United States.

The Hon. Robert Lansing acted as solicitor for the agency, and rendered valuable assistance to the agent throughout the period devoted to the preparation of the case and counter-case in connection with the preparation of the appendices of the case and counter-case containing the documentary evidence relied on by the United States. Upon the completion of that work Mr. Lansing was designated as one of the associate counsel for the United States in the arbitration proceedings.

The Hon. James Brown Scott, then Solicitor for the Department of State and one of the associate counsel for the United States in this case, compiled for the use of the agent and counsel a very complete and useful collection of extracts from the writings of all the leading authorities on international law dealing with the doctrine of international servitudes. A similar compilation of extracts from the leading international law publicists dealing with the subject of coastal waters was prepared by Edwin M. Borchardt, Esq., of the Library of Congress, who was attached to the staff of the agency as international law expert. These compilations proved of great service in connection with the preparation both of the printed and of the oral arguments on the part of the United States.

The date originally fixed by the special agreement for the meeting of the tribunal having been found inconvenient on account of the extension of time agreed upon for the service of the counter-cases, it

was subsequently agreed by the two Governments that it should be postponed until the 1st day of June, 1910, and on that date the first meeting of the tribunal was held at The Hague for the oral arguments of counsel.

The protocols of the proceedings of the tribunal are hereto annexed as a part of this report, and from them it will appear that an adjournment was taken by the tribunal from June 1 to June 6, when the oral argument was commenced.

By agreement between the agents and senior counsel on both sides, it was arranged that Great Britain should have the opening argument and the United States the closing argument, and that counsel on each side should speak alternately. Accordingly, Sir Robert Finlay opened for Great Britain, and the Hon. George Turner opened for the United States, followed by Sir James Winter for Great Britain, Charles B. Warren, Esq., for the United States, Hon. John S. Ewart for Great Britain, Hon. Samuel J. Elder for the United States, Sir William Robson closing for Great Britain, and the Hon. Elihu Root making the closing argument for the United States.

Forty sessions in all were consumed in the oral argument, which ended on August 12, 1910, four days in each week having been devoted to such sessions, the daily sittings of the tribunal continuing for about four or four and one-half hours, the intervening time being required for the preparation of the arguments and for the other business involved in carrying through proceedings of such an extensive and voluminous character. By agreement of the parties the meetings of the tribunal were open to the public.

On the close of the oral argument the case was taken under consideration by the tribunal, and on Wednesday, September 7, 1910, the award of the tribunal was announced.

Before proceeding to a consideration of the provisions and effect of the award, it is desirable that the situation existing before resort was had to arbitration should be briefly reviewed.

Throughout the entire history of this controversy, which extends back almost to the time when the treaty of 1818 was entered into, there has been a wide divergence of view between the United States and Great Britain as to the meaning and effect of Article I of that treaty. With the exception of the first 20 years after the treaty was entered into there has hardly been a time throughout the entire existence of this treaty when the United States and Great Britain have not had under consideration some question arising out of their different views as to the meaning of its provisions, and these questions have involved not only the extent of the rights and obligations of American fishermen in the Canadian and Newfoundland waters affected by the treaty, but also the extent of the treaty waters themselves.

In all of these discussions the interpretation insisted upon by the colonial authorities has been such as to exclude the American fishermen from the enjoyment of the treaty liberties claimed for them by the United States, or to so limit and restrict such liberties as to render them worthless; and the admitted purpose of the colonial authorities throughout the controversy has been to compel the United States to grant trade concessions as the price of the uninterrupted enjoyment of privileges claimed by the United States as a matter of right under the treaty.

The reciprocal agreements entered into by the two Governments in 1854 and 1871, in which the fishery privileges of the treaty of 1818 were merged and more extensive fishery privileges were secured in exchange for trade concessions, proved unsatisfactory to the United States and were short-lived.

The experience afforded by these treaties and by other unsuccessful attempts to dispose of this controversy by similar means long since demonstrated to the satisfaction of both Governments that a permanent settlement of this dispute by such means was a practical impossibility.

The proposed Blaine-Bond treaty of 1892, adjusting the differences between the United States and Newfoundland, failed of ratification on account of opposition on the part of Canada, and the Hay-Bond treaty, negotiated in 1902, by which an adjustment with Newfoundland was again attempted, also failed of ratification.

During the period between the Blaine-Bond treaty and the rejection of the Hay-Bond treaty Newfoundland refrained from any attempts to enforce any objectionable local regulations against American fishermen exercising their treaty rights in Newfoundland waters. The friendly attitude of the Newfoundland Government during that period was publicly admitted by governmental authorities to be due to the fact that the United States having demonstrated its willingness to adjust the matters in dispute with Newfoundland by entering into the Blaine-Bond treaty, the American fishermen were entitled to the treatment which they would have received under that treaty if its ratification had not been defeated by the opposition of Canada.

In 1905, however, upon the failure of the United States to ratify the Hay-Bond treaty, the Newfoundland Government completely reversed its former attitude toward the American fishing interests and proceeded, as shown by the case of the United States in this arbitration, by legislative and executive action to terminate all commercial privileges which for many years prior to that time had been extended to American fishing vessels both on the treaty coasts and on the other coasts of Newfoundland. This new policy of the Newfoundland Government, as was frankly admitted by leading officials of that Government, was intended to force the Government of the United States to open the American markets to Newfoundland fish and fishery products free of duty in exchange for more extensive fishing and commercial privileges on the Newfoundland coasts.

Such, briefly, was the situation when Mr. Root became Secretary of State in 1905, and, as it soon became evident that the Newfoundland Government in carrying out its new policy would undertake to impose upon American fishermen in the exercise of their treaty liberties certain limitations and restraints which were regarded by the United States as in conflict with such liberties, the Secretary of State at once proceeded to take up with Great Britain the question of defining the rights of American fishermen under the treaty of 1818 and restraining the colonial governments from interfering with such rights.

In the diplomatic correspondence which ensued the views of both Governments on these questions were fully and ably presented. It appeared, however, as stated by the British secretary of state for foreign affairs in his note of August 14, 1906, "that the wide diver-

gence of view between the two Governments, which is disclosed by the correspondence, makes it hopeless to expect an immediate settlement of the various questions at issue." A *modus vivendi* for that year accordingly was entered into, but upon a renewal of the discussion the following year it became evident, on account of the conflict of views between the two Governments, that it would be impossible to find a basis for an agreement for the permanent adjustment of the question in dispute. It was accordingly recognized on both sides that recourse must be had to arbitration, and after the general arbitration treaty of April 4, 1908, was entered into, negotiations were undertaken for the arbitration of the questions at issue in this controversy, with the result that the special agreement of January 27, 1909, was concluded, submitting seven questions to arbitration.

These questions covered all the unsettled matter of difference growing out of the fisheries provisions of the treaty of 1818, many of which had been under discussion almost continuously for more than half a century.

On one of the issues under discussion, which was ultimately presented as the first question submitted for decision, several points of agreement had been reached by the parties in the negotiations which led up to the special agreement under which the arbitration was held. This question related to the enforcement by Great Britain or her colonies of fisheries regulations against American fishermen exercising their treaty rights of fishing in British territorial waters. Great Britain had originally contended that under the language of the treaty, which secured to American fishermen a "liberty in common with British fishermen to take fish," American fishermen were subject, when fishing under the treaty in British waters, to all fishing regulations and restrictions imposed by British law upon British fishermen. In formulating this question for submission to arbitration, however, the United States succeeded in securing from Great Britain a modification of this position, and it was admitted by Great Britain in presenting its contention in this question that no fishing regulations could be enforced against American fishermen in British waters under the treaty unless they were appropriate and necessary for the protection and preservation of the fisheries, and reasonable in themselves, and not so framed as to give the local fishermen an unfair advantage over the American fishermen. To this extent the contentions of the two parties coincided. Great Britain further contended, however, that the United States was not entitled to be consulted with regard to the enforcement of any such regulations, and that Great Britain alone must be the sole judge as to their appropriateness, necessity, reasonableness, and fairness; and this was the issue between the two Governments presented in the first question.

As a result of this arbitration, therefore, British regulations limiting the time, manner, and implements of fishing can no longer be enforced against American fishermen exercising their fishing liberties on the treaty coasts unless such regulations are reasonable, appropriate, necessary, and fair, as defined in question 1. In the award on this question it was further decided that in case the United States raises the question of the reasonableness, etc., of any regulation hereafter adopted, Great Britain can not be the judge of that question, which now must be decided by a special commission of experts constituting an impartial tribunal according to a mode of procedure

established by the award, the enforcement of any such regulations being suspended pending the decision of such special commission. Furthermore, a series of legislative provisions of Newfoundland and Canada which the United States had objected to as unreasonable and under Article II of the special agreement had called to the attention of the tribunal on the ground that they were inconsistent with the true interpretation of the treaty of 1818, were referred, at the request of the United States, in accordance with Article III of the special agreement, to a commission of experts for examination and report as to their reasonableness, appropriateness, necessity, and fairness. This commission has not yet reported on the questions so referred to it.

It is evident, therefore, that as a result of the award no regulations limiting the time, manner, and implements of fishing can hereafter be imposed upon American fishermen exercising their treaty liberties in Newfoundland and Canadian waters if any objection has been raised to them by the United States unless their reasonableness, necessity, and fairness has been approved by an impartial commission or tribunal.

The result thus obtained is one which the United States Government would have been willing to agree to at any time during the history of this controversy. Secretaries of State Marcy, Fish, Evarts, and Root have each in turn specifically stated that the United States was willing that the American fishermen on the treaty coasts should be subjected to just and reasonable regulations, but they all insisted that Great Britain and her colonies could not be permitted to be the sole judge of the justness and reasonableness of such regulations.

The only feature of the contention of the United States on question 1 which was not sustained by the tribunal was the extreme position taken in the argument of counsel that the treaty established an international servitude in favor of the United States, exempting American fishermen absolutely from obedience to British fishing regulations. This contention was based upon a principle of international law, supported by the great majority of international publicists, but which was regarded by the tribunal as antiquated and not suited to modern conditions although the treaty under consideration was equally antiquated, having been entered into in the early part of the last century. Nevertheless, the decision in practical effect secures the same measure of protection against unfair and arbitrary regulation of the fisheries which this contention of the United States was designed to secure, and the strength of the contention of the United States on this point unquestionably had a very effective influence in obtaining for the United States the large measure of advantage which is secured to its fishermen by the award.

An alternative line of argument which was relied on by the United States, and which finally prevailed, was that under the obligations imposed by the treaty and by the interpretation of it adopted by both parties in their subsequent governmental actions and particularly by the limitations accepted under the special agreement submitting the question to arbitration, the exercise of British sovereignty had been limited with respect to the matters under consideration even if British sovereignty itself was not limited; and the award has sustained this contention of the United States.

Although British sovereign rights over the fisheries in British waters are affirmed in the decision, nevertheless the exercise of such rights is effectively limited by the award to the extent above indicated.

On question 2 the tribunal has decided in favor of the contention of the United States that the inhabitants of the United States while exercising their treaty liberties of fishing have a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States, thus overruling the British contention that the liberty of fishing, which the treaty secures "to inhabitants of the United States," gave them only the right to exercise themselves the manual act of taking fish and did not permit them to employ persons who were not inhabitants of the United States to assist them in exercising that right. It is pointed out in the award, however, that the persons so employed derive no benefit or immunity from the treaty in their own right.

The third and fourth questions deal with the contentions always maintained by Great Britain that American fishermen exercising their fishing liberties on the treaty coasts and the special privileges reserved to them on the nontreaty coasts, might be subjected to the same customhouse regulations which were imposed upon vessels enjoying trading privileges on those coasts, and also to the payment of light and harbor dues and other exactions of a similar character, although the local fishermen were exempt from such requirements.

The United States, on the other hand, although admitting that American fishing vessels exercising their treaty liberties or privileges in British waters might properly be called upon to notify the local authorities of their presence there and exhibit their credentials if convenient opportunity was afforded, has always contended that American fishing vessels could not be subjected to the customs regulations imposed upon other vessels, or required to pay light, harbor, or other dues not imposed upon local fishing vessels. The contentions of the United States on these questions have been fully sustained by the award. It holds, under question 3, with reference to the treaty coasts that "the exercise of the fishing liberty by the inhabitants of the United States should not be subjected to the purely commercial formalities of report, entry, and clearance at a customhouse, nor to light, harbor, or other dues not imposed upon Newfoundland fishermen" and that American fishing vessels should not be required even to report their presence on the coast "unless there be reasonably convenient opportunity afforded to report in person or by telegraph, either at a customhouse or to a customs official."

So, also, under question 4, with reference to the exercise of the treaty privilege of entering bays or harbors on the nontreaty coast for the four purposes specified in the treaty, the award decides that "to impose restrictions making the exercise of such privileges conditional upon the payment of light, harbor, or other dues, or entering and reporting at customhouses, or any similar conditions would be inconsistent with the grounds upon which such privileges rest, and therefore is not permissible." It declares, however, in the case of fishermen who remain more than 48 hours in such bays and harbors in the exercise of their treaty privileges, that it would not be unreasonable to require them, "if thought necessary by Great Britain or the Colonial Government, to report either in person or by telegraph at a customhouse or to a customs official if reasonably convenient opportunity therefor is afforded."

Question 5, which was introduced into the arbitration by Great Britain, deals with the historic contention of the British Government that the renunciation by the United States in the treaty of 1818 of the liberty of fishing on or within 3 miles of any bays on the nontreaty coasts must be interpreted as excluding American fishermen from fishing in any of the indentations of the coast which might properly be defined as bays, regardless of their size. The position of the United States on this question has always been that inasmuch as the language of the treaty is "bays of His Britannic Majesty's dominions" the bays referred to were only such bays as were included within the usual 3-mile limit of territorial jurisdiction bordering the coast, and that the right to fish in the larger bays was, therefore, not renounced by the treaty.

As appears from the opinion, the tribunal determined that the renunciation of the right to fish "on or within 3 marine miles of any bays," etc., must be interpreted as applying only to geographical bays, the tribunal declaring that it is "unable to understand the term bays in the renunciatory clause in other than its geographical sense." The award on this question is as follows:

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

Great Britain's contention did not rest upon the assertion of territorial jurisdiction over such bays, and the award does not go to the extent of holding that Great Britain has territorial jurisdiction over the large bays, although the United States has renounced for its fishermen the right to fish therein.

The award, therefore, still leaves American fishermen in such bays subject to American and not British law, and confers upon Great Britain or the British colonies no right to seize or interfere with American fishing vessels beyond the 3-mile limit from shore in such bays, such vessels being in a similar situation to British vessels violating their obligation under the fur-seal award, which excludes them from fishing in certain portions of the high seas.

The award of the tribunal on this question does not define what is a bay, holding merely that the 3-mile limit of exclusion must be measured from a "line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay." This answer leaves open the question of where such line is to be drawn in each particular case and also the question of whether any particular body of water has the "configuration and characteristics of a bay." The tribunal recognized this difficulty, and in order to "render the decision more practicable and to remove the danger of future differences" the award contains a further provision recommending the adoption of the rule approved and accepted by Great Britain in many treaties that "only bays of 10-mile width should be considered as those where the fishing is reserved to nationals," extending this rule, however, to include certain larger bays as exceptions to it. These recommendations are substantially in accordance with the agreement adopted by the unratified Bayard-Chamberlain treaty of 1888, with certain considerable modifications in favor of the United States.

The Bay of Fundy, which is the only large bay where the American fishermen now fish or have fished to any extent within recent years, is expressly excepted from the application of the award on this question.

The strength of the position of the United States on this question is shown by the very able argument presented in the dissenting opinion by Dr. Drago and by the fact that the British contention was not fully sustained, and that this was the only question of the seven submitted upon which the decision of the tribunal was not unanimous.

The sixth question deals with the contention of Great Britain, advanced for the first time in recent years, that the treaty did not secure to American fishermen the liberty of fishing in the bays on the southern and western coasts of Newfoundland and on the Magdalen Islands. This contention rested on the argument that the liberties secured by the treaty to fish on the southern and western coasts of Newfoundland and on the shores of the Magdalen Islands did not extend to the bays on those coasts, inasmuch as the treaty does not mention bays in connection with those coasts, and does expressly mention them in connection with the coast of Labrador, which forms part of the treaty coast. The United States, on the other hand, contended that the liberty secured by the treaty to fish on those coasts necessarily extended to the bays of such coasts, and that this interpretation must be adopted, not only because it was supported by the language of the treaty read in the light of the evident intention of the parties in entering into it, but also because usage and custom and the action of both Governments subsequent to the treaty had combined to give the treaty that interpretation in actual practice for the entire period since the treaty was entered into.

The award of the tribunal sustained fully and without qualification the contention of the United States on this question.

In many respects this was the most important question submitted for decision. The bait fish, which are procured in immense quantities in the bays of Newfoundland and of the Magdalen Islands, are a very important factor in the successful prosecution of the exceedingly valuable cod fishery on the Grand Bank and on the other banks in the North Atlantic; and this situation discloses the real importance of this question. If the contention of the Newfoundland Government had been sustained, and American fishermen deprived of the opportunity of taking bait for themselves in these bays, it was the admitted intention of the Newfoundland Government to threaten the entire cod-fishing industry on the banks by prohibiting the Newfoundland fishermen from selling bait to the American fishermen, in order to compel the United States to yield to Newfoundland's demand for the free entry of Newfoundland fish and fish products and for other commercial concessions in exchange for the privilege of procuring bait. Furthermore, the very important and profitable winter herring fishing was also dependent upon the decision of this question, inasmuch as it is carried on by the American fishermen wholly in the bays on the west coast of Newfoundland.

The decision of this question in favor of the United States also disposes of a claim for a very large amount of damages which the Newfoundland Government was preparing to present against the United States for the value of all the fish taken by American vessels in

these bays during the 90 years since the treaty was entered into, on the ground that American fishermen under the treaty had no right to fish in such bays.

The seventh question called upon the tribunal to determine whether or not the inhabitants of the United States, whose vessels resorted to the treaty coasts for the purpose of exercising their treaty liberties of fishing, were entitled to use the same vessels, when duly authorized by the United States, in the exercise of such commercial privileges on the treaty coasts as were accorded by agreement or otherwise to American trading vessels generally. The position of the United States on this question was that fishing vessels exercising commercial privileges necessarily subjected themselves to all the requirements and conditions imposed upon commercial vessels generally, but that the use of a vessel by inhabitants of the United States in the exercise of their fishing rights did not disqualify such vessel from being used for commercial purposes after it had completed its fishing operations, and, conversely, that a commercial vessel might be used for fishing purposes as soon as its use for commercial purposes ceased.

The award of the tribunal fully sustains the contentions of the United States on this question, holding that—

The inhabitants of the United States are so entitled, in so far as concerns this treaty, there being nothing in its provisions to disentitle them, provided the treaty liberty of fishing and the commercial privileges are not exercised concurrently.

The provisions of Articles II and III of the special agreement and the proceedings already taken and to be taken pursuant thereto form an important part of the award on question 1, and require brief examination.

Pursuant to the provisions of Article II of the special agreement, the United States called the attention of the tribunal upon the oral argument to certain acts of Newfoundland and Canada which had already been specified by the United States to Great Britain within the period required for such specification, and called upon the tribunal "to express in its award its opinion upon such acts, and to point out in what respects, if any, they were inconsistent with the principles laid down in the award." The objection of the United States to such acts was based on the grounds that in their application to American fishermen on the treaty coasts they were not appropriate, and necessary, and reasonable, and fair as defined in question 1.

The United States further requested that, in case the character of the award should require the determination of the reasonableness, etc., of the acts specified, the tribunal should refer to a commission of expert specialists for action thereon, in accordance with Article III of the special agreement, such of the acts specified as required an examination of the practical effect thereof in relation to the conditions surrounding the exercise of the liberty of fishing, or required expert information about the fisheries themselves. In reply to this application on the part of the United States, Great Britain filed an answer submitting that the acts referred to were reasonable in themselves and that the United States had not sufficiently stated the grounds of objection to the various acts referred to, and had laid no ground for the request that certain of these acts should be referred to a commission of expert specialists. The proceedings thus taken were set forth in a printed statement on behalf of the United States,

and a printed answer on behalf of Great Britain, both of which were filed with the tribunal, and copies of which are included in the appendix to the printed record of the proceedings of the tribunal, which forms part of this report. The issues thus raised were discussed in written communications exchanged between the agents of both parties and the tribunal, copies of which also are included in the appendix to the printed record of the proceedings of the tribunal.

The position taken by the United States was sustained by the award of the tribunal under question 1, whereby it was held that—

The decision of the reasonableness of these regulations requires expert information about the fisheries themselves, and an examination of the practical effect of a great number of these provisions in relation to the conditions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States as contemplated in Article III.

The tribunal accordingly referred the regulations objected to by the United States to a commission of experts, as provided for in Article III of the special agreement, for action in accordance therewith, and called upon the parties to designate, within one month from the date of the award, their respective representatives on such commission. Dr. P. P. C. Hoek, scientific adviser for the fisheries of the Netherlands, was designated in the award as the nonnational member of this commission. Dr. Hugh M. Smith, Deputy Fish Commissioner of the United States, was designated within the period fixed by the award as the commissioner on the part of the United States. Hon. Donald Morison, minister of justice of Newfoundland, has been designated as the commissioner on the part of Great Britain.

In the course of the oral argument before the tribunal, the position was taken by counsel on both sides that in determining the rights of the parties under question 1, the tribunal should take into consideration the provisions of Article IV of the special agreement submitting this case to arbitration. By this article it was agreed that unless the parties should adopt some alternative method of procedure, any differences arising in the future relating to the interpretation of the treaty of 1818, or to the effect or application of the award of the tribunal, should be referred informally to the Permanent Court at The Hague "for decision by the summary procedure provided for in chapter 4 of The Hague convention of the 18th of October, 1907." In view, however, of the fact that this special agreement was entered into under the general treaty of arbitration concluded between the United States and Great Britain on the 4th day of April, 1908, the duration of which, by its own terms, was limited to a period of five years, it seemed desirable to the agent and counsel on the part of the United States that the view which was entertained by both court and counsel and formed part of the basis upon which the case was considered should be declared beyond the possibility of future question to the effect that the provisions of Article IV of the special agreement continued with the fisheries provisions of the treaty of 1818, and did not terminate with the general arbitration treaty of 1908. This subject was, therefore, brought up for consideration at the session of the tribunal on Friday, August 5, 1910, and it was then stated by counsel on behalf of the United States and of Great Britain, respectively, that the provisions of Article IV were regarded as constituting, in effect, a new treaty which would survive the termination of the general treaty of arbitration, and that Article IV of the special agree-

ment was not limited by any term, but related to the future generally, and therefore was not a determinable article so far as affects its subject matter. The same view was expressed on the part of the tribunal; and in the award on question 1, the tribunal held that—

Article IV of the agreement is, as stated by counsel of the respective parties at the argument, permanent in its effect and not determinable by the expiration of the general arbitration treaty of 1908 between Great Britain and the United States.

The foregoing examination of the award and of Articles II, III and IV of the special agreement makes it evident that the wise and farsighted provisions of that agreement entered very largely into the satisfactory outcome of this arbitration, and both countries are to be congratulated that a permanent and expeditious method is now provided for settling future differences, if any should arise, in regard to the fisheries under the treaty of 1818.

The duplicate original of the award, signed by the members of the tribunal, and also of the dissenting opinion of Dr. Drago on question 5, which were delivered to the agent of the United States when the award was announced, are transmitted herewith, and a copy of the award and of Dr. Drago's opinion are hereto annexed as part of this report.

The very important services rendered by counsel in the presentation of the oral arguments on behalf of the United States and otherwise in the course of the proceedings are too well understood and appreciated to require special mention in this report further than to say that Mr. Turner's opening of the case was a very strong and able argument and exhibited the results of great industry and research and the same is true of the arguments of Mr. Elder and Mr. Warren on the particular questions dealt with by them, and that Mr. Root's argument in closing was a masterly presentation of the entire case of the United States. It is appropriate that the agent should express his obligation to the counsel of the United States for the very cordial and loyal support which they have given him throughout the entire course of these proceedings; also that mention should be made of the fact that the distinguished services rendered by Senator Root in this case as senior counsel have been rendered by him without compensation. Such services, in addition to the responsibilities attendant upon the duties of chief counsel in a case of such magnitude and importance, involved also the necessity of spending, at the expense of his summer vacation, more than three months away from home and, from June 1 to August 12, in almost daily attendance at the sessions of the tribunal, and the preparation and delivery of the closing argument, which consumed six sessions of the tribunal, summing up the entire case for the United States. The acceptance of the position of chief counsel was urged upon Mr. Root by the President and the Secretary of State and the agent and the other counsel for the United States in this case, and he gave his services freely to the Government without the expectation of receiving compensation, and to him, as chief counsel, the United States is indebted in large measure for the successful outcome of the arbitration.

It is also appropriate that acknowledgment should be made of the obligation of the agent and counsel to the Department of State for the hearty and effective cooperation and assistance rendered to them by the department throughout the entire period covered by the arbitration proceedings. Valuable assistance was also rendered in these

proceedings by Dr. Hugh M. Smith, Deputy Fish Commissioner of the United States, who acted as expert adviser on practical and technical questions relating to the regulations of the fisheries, and has now been designated as the member on the part of the United States of the special commission of experts; and by Messrs. Alvin B. Alexander, Carl C. Young, and Arthur L. Millet, attached to the agency as fisheries experts; and by Mr. Otis T. Cartwright, secretary of the agency and special disbursing officer, Department of State; Mr. Edwin M. Borchardt, expert on international law; and Messrs. Wallace J. Young, James B. Davies, Charles Jenkinson, and John D. Johnson, who were attached to the agency as members of the clerical staff.

I am, sir, very respectfully, your obedient servant,

CHANDLER P. ANDERSON,
*Agent of the United States in the North
Atlantic Coast Fisheries Arbitration.*

**DECLARATIONS BY THE UNITED STATES AND GREAT BRITAIN
EXEMPTING COMMERCIAL TRAVELERS' SAMPLES FROM CUS-
TOMS INSPECTION.**

*Signed at Washington, December 3 and 8, 1910.
Effective, January 1, 1911.*

DECLARATION.

In order to facilitate the clearance through the customs department of the United Kingdom of Great Britain and Ireland of samples brought into the territory of that country by commercial travelers of the United States of America, such samples being for use as models or patterns for the purpose of obtaining orders and not for sale, the undersigned Alfred Mitchell Innes, His Britannic Majesty's chargé d'affaires at Washington, duly authorized thereto, and in virtue of a similar declaration made by Philander C. Knox, Secretary of State of the United States, does hereby declare that, from and after the 1st day of January, 1911, and until the expiration of one month after the day on which either the United Kingdom or the United States shall give notice of the withdrawal of said declaration, the officially attested list of such samples, containing a full description thereof issued at the time of exportation by the British consular authorities established in the United States, shall be accepted by the customs officials of the United Kingdom as establishing their character as samples and exempting them from inspection on importation except in so far as may be necessary in order to comply with the law of the United Kingdom.

A. MITCHELL INNES,
His Britannic Majesty's Chargé d'Affaires.

WASHINGTON, December 3, 1910.

DECLARATION.

In order to facilitate the clearance through the customs department of the United States of America of samples brought into the territory of that country by commercial travelers of the United Kingdom of Great Britain and Ireland, such samples being for use

as models or patterns for the purpose of obtaining orders and not for sale, the undersigned Philander C. Knox, Secretary of State of the United States, duly authorized thereto, and in virtue of a similar declaration made by Alfred Mitchell Innes, His Britannic Majesty's chargé d'affaires at Washington, does hereby declare that, from and after January 1, 1911, and until the expiration of one month after the day on which either the United States or the United Kingdom shall give notice of the withdrawal of said declaration, the officially attested list of such samples containing a full description thereof, issued at the time of exportation by the American consular authorities established in the United Kingdom, shall be accepted by the customs officials of the United States as establishing their character as samples and exempting them from inspection on importation except in so far as may be necessary in order to comply with the law of the United States.

P. C. KNOX,
Secretary of State of the United States.

WASHINGTON, December 8, 1910.

TAKING OF TESTIMONY BY CONSULAR OFFICERS.

File No. 24203.

Ambassador Bryce to the Secretary of State.

No. 54.]

BRITISH EMBASSY,
Washington, March 26, 1910.

SIR: His Majesty's Government are anxious to obtain information regarding the examination of witnesses under oath by consular officers in the United States. It is the practice of the English courts to issue from time to time commissions by which the person or persons named in the writ of commission are empowered to examine witnesses on oath, affirmation, or otherwise, in order to obtain evidence abroad for the purposes of civil proceedings pending before the courts of this country.

On some occasions British consular officers are intrusted with this duty if they are personally willing to undertake it. They are not, however, under any obligations to do so, nor does it form any part of their official consular attributes. Furthermore, all such evidence is tendered voluntarily and witnesses can not be compelled to give it should they be unwilling to do so.

His Majesty's Government presume there can at least be no objection to this practice in cases in which the persons whose testimony is required are British subjects, but they nevertheless wish to obtain an official pronouncement on the subject.

I have accordingly the honor to request that you will be so good as to furnish me, if possible, with replies to the following specific questions:

1. Is there any objection to evidence being taken in this manner from United States citizens if they are willing to give it?
2. The same question as to subjects or citizens of other States when within the limits of the United States.
3. The same question as to British subjects similarly placed.

Thanking you in anticipation, I have, etc.,

JAMES BRYCE.

File No. 24203.

The Secretary of State to the British Ambassador.

No. 897.]

DEPARTMENT OF STATE,
Washington, May 19, 1910.

EXCELLENCY: The department has received your note of March 26, 1910, in which you inquire whether there is any objection to British consular officers taking evidence in the United States (1) of American citizens; (2) of subjects or citizens of other States when within the limits of the United States; and (3) of British subjects within the limits of the United States.

It is understood by this department that an American consular officer in British dominions may take evidence of American citizens within his consular district either in his ordinary consular capacity or by virtue of a commission issued to him by an American court. If this understanding is correct, this Government is entirely agreeable, subject to any special legislation of the States, to the exercise of similar functions by British consular officers in the United States in respect to taking testimony of British subjects, provided, of course, that the testimony be given voluntarily. This Government, subject to special state legislation and the other conditions already mentioned, is equally ready to accord to British consular officers in the United States the privilege of taking testimony of American citizens and of subjects or citizens of other nations residing within the territory of the United States, upon assurance that American consular officers are authorized to take testimony of British subjects and foreign subjects or citizens residing in British dominions.

I have, etc.,

P. C. KNOX.

File No. 24203/L.

The British Ambassador to the Secretary of State.

No. 115.]

BRITISH EMBASSY,
Dublin, N. H., June 27, 1910.

SIR: In your note No. 897 of the 19th ultimo you were good enough to inform me for the information of my Government of the attitude of the United States Government with request to the examination of witnesses by consular officers in the United States. This information I communicated to my Government.

I am now in receipt of a further communication from His Majesty's principal secretary of state for foreign affairs asking me to explain to you that the taking of evidence under commission is not confined to His Majesty's consular officers, but includes any person in whose favor such commission may be issued, and to inform you that His Majesty's Government would be glad to learn whether the reply of the United States Government may be deemed to imply assent in these cases also.

I am further instructed to add that His Majesty's Government would offer no opposition to the examination of witnesses in this country by any person duly authorized by the United States courts.

I have, etc.,

JAMES BRYCE.

24203/1.

The Acting Secretary of State to the British Ambassador.

No. 936.]

DEPARTMENT OF STATE,
Washington, July 15, 1910.

EXCELLENCY: The department has received your note of the 27th ultimo, in which you refer to the department's note of May 19 last, relative to the examination of witnesses by consular officers in the United States, and state that you are in receipt of a further communication from the British Foreign Office instructing you to explain that, the taking of evidence under commission is not confined to His Majesty's consular officers, but includes any person in whose favor such commission may be issued, and that you are instructed to inform this Government that His Majesty's Government would be glad to learn whether the reply of the United States Government may be deemed to imply assent in those cases also; and that you are further instructed to add that His Majesty's Government would offer no objection to the examination of witnesses in this country by any person duly authorized by the United States courts.

In reply I have the honor to say that this Government, subject to the reservation indicated in the department's note of May 19th last, is agreeable to the taking of testimony in the United States by persons other than British consular officers, duly authorized by British Courts.

I have, etc.,

HUNTINGTON WILSON.

COMPULSORY IMMIGRATION—CASE OF ALFRED LUMB.

File No. 23814/2.

The Acting Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 12, 1910.

Mr. Wilson instructs Mr. Reid to consult Consul General Griffiths regarding reported deportation of Alfred Lumb, a British subject convicted in England of counterfeiting, to the United States; to make careful investigation, and, if facts are found to be as reported by Mr. Griffiths, and, if order of deportation to the United States has been issued to bring the matter to the attention of the British Foreign Office, calling attention to Section 2 of Immigration Act of February 20, 1907, 34 Statutes at Large, 898. Mr. Reid is informed that the attitude of this Government regarding compulsory or assisted emigration is set forth in 4 Moore's Int. S. Dig. sections 560 and 565, and he is directed to inform the British Government of this attitude, and to say that the Government of the United States feels confident that when the action of the local officers at Leeds has been called to the attention of the British Government steps will be taken to prevent the consummation of the order of deportation.

File No. 23814/11.

Ambassador Reid to the Secretary of State.

No. 1216.]

AMERICAN EMBASSY,
London, March 18, 1910.

SIR: On receipt of your cable instruction of the 13th instant I immediately took steps to investigate whether the commissioner of assize at Leeds had taken the course reported to you through the American consul general in London.

The first information which I received from the consul at Leeds, which was confirmed by the press reports, led me to believe that the commissioner of assize had merely withheld sentence on the ground that Alfred Lumb should leave the country within a certain period and that the court itself had made no reference to the prisoner's going to the United States.

On receipt, however, of a copy of the transcript of the court records it became evident that the commissioner, in addressing the prisoner, said, "Are you ready, if I let you go, to be bound over to go to America?" to which the prisoner replied, "Yes," and thereupon the commissioner stated that he was prepared to release prisoner on his recognizance and his brother's for the sum of £50 each.

I have accordingly to-day addressed a note to the foreign office in which, after bringing the facts to the attention of Sir Edward Grey, I request him to take such steps as may be necessary to prevent the consummation of the order.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*Ambassador Reid to the Minister for Foreign Affairs.*AMERICAN EMBASSY,
London, March 16, 1910.

SIR: My attention has been called to reports published in the Yorkshire Evening Post of the 8th and 9th instant to the effect that one Alfred Lumb, a British subject, has been indicted for uttering counterfeit coin and for silvering with a certain liquid pennies and a halfpenny so that they would resemble current silver coins, to which indictment the prisoner pleaded guilty.

It appears that having asked prisoner whether in the event of his discharge being granted he would be ready to be bound over to leave the country and to go to America, and the prisoner having answered in the affirmative, the commissioner announced that prisoner would be released upon entering into a recognizance of £50 to leave the country within one month, the prisoner's brother entering into a like recognizance that the prisoner would go within the stated period.

If the reports that have appeared in the Yorkshire Evening Post are not incorrect, it would appear that the commissioner of assize was unaware of the provisions of the United States immigration act of 1875, section 3, providing that "it shall be unlawful for aliens of the following classes, namely * * * whose sentence has been remitted on condition of their emigration"—this provision being intended to put a stop to a practice in certain countries, whereby, on sending such persons to the United States, the authorities were able to avoid the trouble and expense of taking care of their own criminals.

The immigration act of February 22, 1907, provides that persons inter alios who have been convicted of or admit having committed a felony shall be excluded from admission to the United States. Lumb would therefore, if his identity were discovered, not only be denied admission but would, on his arrival, be deported.

In bringing the matter to your attention, I wish to point out, in order to avoid similar cases in the future, what will, I think, have occurred to you, that the commissioner of

assize, in postponing a sentence upon the express condition that the prisoner should go to America, was unwittingly violating international comity, in requiring by his sentence that the prisoner before him should attempt to violate the laws of the United States.

My Government feels confident that if the facts of the case prove to be as stated you will take such steps as may be necessary to prevent the consummation of the commissioner's order.

I have, etc.,

WHITELAW REID.

File No. 23814/11.

The Secretary of State to Ambassador Reid.

No. 1261.]

DEPARTMENT OF STATE,
Washington, March 30, 1910.

SIR: The department has received your No. 1216 of the 18th instant, in regard to the anticipated emigration to the United States of the British subject Alfred Lumb, a confessed counterfeiter.

The department approves your note to the foreign office on the subject.

I am, etc.,

(For Mr. Knox.)

HUNTINGTON WILSON.

The British Ambassador to the Secretary of State.

No. 1322.]

AMERICAN EMBASSY,
London, June 22, 1910.

SIR: With reference to my dispatch 1216 of the 18th of March last, transmitting a copy of my note to the foreign office dated the 16th of that month respecting the case of Alfred Lumb, a British subject, who was convicted of uttering counterfeit coin and was released upon condition of leaving the United Kingdom and proceeding to the United States, I have the honor to inclose herewith copy of the foreign office reply dated June 17, in which it is stated that the commissioner of assize who heard the case acted in the matter in ignorance of the United States law bearing upon this subject.

The secretary of state for the home department has addressed a circular to all the judges of the high court, recorders of boroughs, and chairmen of quarter sessions calling their attention to the provisions of United States law bearing upon the immigration of convicted offenders.

I have, etc.,

WHITELAW REID.

[Inclosures.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, June 17, 1910.

YOUR EXCELLENCY: I did not fail to refer to the proper department of His Majesty's Government the note which your excellency addressed to me on the 16th of March last, respecting the case of Alfred Lumb, a British subject, who was recently convicted of uttering counterfeit coin and was released on condition of leaving the United King-

dom and proceeding to the United States, and I now have the honor to inform your excellency that the commissioner of assize who heard the case acted in the matter in ignorance of the United States statutes bearing upon the immigration of convicted offenders.

With the object of avoiding any possible recurrence of such a case the secretary of state for the home department has addressed to all judges of the high court, recorders of boroughs, and chairmen of quarter sessions, a circular calling their attention to the provisions of United States law on this subject.

I have, etc.

(For Sir E. Grey):
W. LANGLEY.

PROPOSED ALTERNATIVE PROCEDURE FOR THE INTERNATIONAL PRIZE COURT AND THE INVESTMENT OF THE INTERNATIONAL PRIZE COURT WITH THE FUNCTIONS OF A COURT OF ARBITRAL JUSTICE.

The Secretary of State to Chargé Rives.

DEPARTMENT OF STATE,
Washington, November 3, 1909.

SIR: Referring to the department's cable of March 5, 1909 (see p. 603), proposing alternative procedure for the international prize court and the investment of this tribunal with the functions of a court of arbitral justice, a copy of which was transmitted to the Austro-Hungarian foreign office and to the foreign offices of the countries represented at the recent naval conference at London, the department desires you to transmit immediately to the minister of foreign affairs the inclosed identic circular note, to express to him the great interest which your Government takes in the acceptance of the proposals contained in the identic circular note and to request as early action as the importance of the proposals will permit.

These instructions have been sent, mutatis mutandis, to diplomatic representatives of the United States at Berlin, Paris, London, Rome, Tokyo, St. Petersburg, The Hague, and Madrid.

I am, etc.,

P. C. KNOX.

Identic circular note of the Secretary of State of the United States proposing alternative procedure for the international prize court and the investment of the international prize court with the functions of a court of arbitral justice.

The convention of October 18, 1907, for the establishment of an international court of prize, was signed ad referendum by the delegates of the United States to the Second Hague Peace Conference, as by the law of this country treaties and conventions require the approval of the Senate before binding the Government and before ratifications can be exchanged with the contracting parties.

The convention appeals strongly to the sense of justice by which this Government is animated, as the establishment of the prize court would substitute, for a national decision, a judgment of an international and disinterested tribunal, composed of a majority of judges selected from neutral countries and thus able and desirous to safeguard neutral rights and protect neutral property. The interest this Government takes in the establishment of the international prize court and the benefits to be derived from its successful operation are

evidenced by the following passage from President Roosevelt's annual message to Congress, dated December 3, 1907:

A further agreement of the first importance was that for the creation of an international prize court. The constitution, organization, and procedure of such a tribunal were provided for in detail. Anyone who recalls the injustices under which this country suffered as a neutral power during the early part of the last century can not fail to see in this provision for an international prize court the great advance which the world is making toward the substitution of the rule of reason and justice in place of simple force. Not only will the international prize court be the means of protecting the interests of neutrals, but it is in itself a step toward the creation of the more general court for the hearing of international controversies to which reference has just been made. The organization and action of such a prize court can not fail to accustom the different countries to the submission of international questions to the decision of an international tribunal, and we may confidently expect the results of such submission to bring about a general agreement upon the enlargement of the practice.

Action upon the prize convention has been postponed owing to the dissatisfaction expressed by several powers concerning the status of the law to be administered by the court by virtue of article 7 of the convention, which dissatisfaction culminated in a formal invitation by Great Britain to Germany, the United States, Austria-Hungary, Spain, France, Italy, Japan, the Netherlands, and Russia, to meet in December, 1908, in order to reach an agreement upon the law to be administered by the court in the absence of special conventions or universally recognized principles of international law. Pursuant to this invitation, the representatives of the powers assembled at London and remained in session until February 26, 1909,¹ when a comprehensive, progressive, and satisfactory declaration on maritime law was unanimously approved by the conference and recommended for adoption by the nonparticipating powers.

The objection to the prize court convention made by several powers at the Second Hague Peace Conference has, therefore, ceased to exist, and it is gratifying to the United States to learn that these powers are prepared to ratify the convention and to participate in the labors of the court when established. The delegation of the United States signed the declaration of London, formulated at the conference of London, and its action has been approved by the Department of State, although the Senate of the United States has not as yet had opportunity to take formal action, as it seems desirable to this Government to consider at one and the same time the convention for the establishment of the international prize court and the declaration of London.

Although the London conference has removed the international objection to the approval of the convention for the establishment of the prize court, there is, on the part of this Government, shared, it is believed, by various signatories of the convention, a constitutional and, therefore, a national and internal difficulty which requires patience and no little good will to overcome. There is a deep-rooted objection, based upon constitutional reasons, which it is therefore unnecessary to set forth in detail, to the allowance of an appeal from a national judgment, as contemplated by the convention, which may result in the reversal of a national judgment by an international tribunal. Therefore, the United States instructed its delegates to the London conference to propose—

An additional article or protocol for the consideration of and eventual acceptance by the conference, by which each signatory of the convention of October 18, 1907,

¹See *Foreign Relations*, 1909, p. 294.

shall possess the option, in accordance with local legislation, either to submit the general question of the rightfulness of any capture to the determination of the international prize court, or to permit an appeal from the judgment of a national court in a specific case direct to the international prize court, as contemplated by the convention of October 18, 1907.¹

The American delegation acted as directed, and after a careful and conscientious discussion of the proposal and the difficulties it was meant to obviate, the conference adopted unanimously the following *vœu*:

The delegates of the powers represented at the naval conference which have signed or expressed the intention of signing the convention of The Hague of the 18th October, 1907, for the establishment of an international prize court, having regard to the difficulties of a constitutional nature which, in some States, stand in the way of the ratification of that convention in its present form, agree to call the attention of their respective Governments to the advantage of concluding an arrangement under which such States would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that resort to the international prize court in respect of decisions of their national tribunals shall take the form of a direct claim for compensation, provided always that the effect of this reservation shall not be such as to impair the rights secured under the said convention, either to individuals or to their Governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the powers signatory of that convention.²

Upon receipt of the text of the *vœu* this Government, on March 5, 1909, cabled to its diplomatic agents accredited to the powers represented at the conference its intention to—

Send an identic circular note to each of the participating powers, setting forth at length the reasons which influence the United States to request a rehearing *de novo* of a question involved in a national prize decision, and the means whereby this change of procedure may be effected without interfering with the rights of Governments or individuals under the prize court convention.

In pursuance, therefore, of this express notice and of the deep and abiding interest the United States takes in the establishment of the international prize court, the Department of State has the honor to submit to your considerate examination the following observations:

The court contemplated by the prize convention of October 18, 1907, is preeminently a court of appeal, with full power to review the decision of a national court of justice, both as to facts and as to the law applied, and, in the exercise of its judicial discretion, not only to affirm or reverse, in whole or in part, the national decision from which the appeal is lodged, but also to certify its judgment to the national court for proceedings in accordance therewith. The international prize court, therefore, is an ultimate court of appeal of which, by the convention, national courts are intermediate instances. The purpose of the convention and of the conference which adopted it undoubtedly was and is to secure determination by an international tribunal of a controversy affecting neutral rights and property arising from capture and confiscation in war and by a series of well-considered judgments to establish by international decisions the principles of international prize law. The Government of the United States is in hearty accord with this purpose and desires to cooperate in its realization, but is, however, of the opinion that the end in view may be effectuated without violating the spirit of the convention and, indeed, without amending it, so that, for those countries unable or unwilling to submit the judgments of their national courts to international review, a simple expedient may be devised by virtue of which the

¹ See Foreign Relations, 1909, p. 304.

² See Foreign Relations, 1909, p. 318.

question in controversy, instead of the actual judgment of the national court, may be submitted to the international court at The Hague for final determination without sacrificing substance to form, and without interfering with the practice of the United States in such matters. To illustrate this position by concrete examples taken from controversies with Great Britain arising out of the Civil War:

Questions involved in the following cases upon which decisions had been rendered by the Supreme Court of the United States were afterwards submitted to arbitration by the United States under the British-American Claims Convention, sitting under article 12 of the treaty of Washington, dated May 8, 1871, for decision "according to justice and equity":

1. Questions which the international tribunal decided adversely to the decision of the Supreme Court of the United States, which international decisions were obeyed by the United States: *The Hiawatha*, 2 Black, 635, 4 Moore's International Arbitrations, 3902; *The Circassian*, 2 Wallace, 135, 4 Moore, 3911; *The Springbok*, 5 Wallace, 1, 4 Moore, 3928; *The Sir William Peel*, 5 Wallace, 517, 4 Moore, 3935; *The Volant*, 5 Wallace, 179, 4 Moore, 3950; *The Science*, 5 Wallace, 178, 4 Moore, 3950.

2. Questions in which the decision of the international tribunal upheld the decision of the Supreme Court of the United States: *The Peterhoff*, 5 Wallace, 28, 4 Moore's International Arbitrations, 3838; *The Dashing Wave*, 5 Wallace, 170, 4 Moore, 3948; *The Georgia*, 7 Wallace, 32, 4 Moore, 3957; *The Isabella Thompson*, 3 Wallace, 155, 3 Moore, 3159; *The Pearl*, 5 Wallace, 574, 3 Moore, 3159; *The Adela*, 6 Wallace, 266, 3 Moore, 3159.

It is therefore evident that the demands of justice would be satisfied by submitting the question involved to impartial international determination, for although the controversy is based upon the decision of a national court of justice, the judgment of the international tribunal, while satisfying the claimant and settling the principle of international law involved, would not affect the validity of the national judgment within its jurisdiction. The national decision would remain in full force so far as the nation is concerned, in that it is not reversed by an international tribunal; but the international law properly applicable to the case would have been determined by an international tribunal, thus establishing for the community of nations the correct principle of international law.

The proposal of the United States leaves untouched and unquestioned the composition of the court, its jurisdiction and procedure, and only affects the question of appeal in its technical rather than its equitable sense, because dissatisfaction with the decision of a national court is the cause of the proceeding before the international tribunal, and the judgment of this august tribunal is binding upon the signatory powers by virtue of article 9. The advantage of the proposal lies in the fact that it does not bring national and international decisions into conflict, with a reversal of the former by the latter, and without wounding national susceptibility, leaves unaffected the constitutional law of the signatories.

The proposition of the United States is based upon the alternative remedy contained in the second sentence of the second paragraph of article 8 of the international prize court convention, combined with

the statements contained in the final paragraph of article 3 and article 42. For the sake of clearness, these provisions of the convention follow:

If the vessel or cargo have been sold or destroyed, the court shall determine the compensation to be given to the owner on this account. (Art. 8, second sentence of second paragraph.)

The appeal against the judgment of the national court can be based on the ground that the judgment was wrong either in fact or in law. (Art. 3, final paragraph.)

The court takes into consideration in arriving at its decision all the facts, evidence, and oral statements. (Art. 42.)

Analyzing these articles, it is apparent that the convention assumes that the captured vessel or cargo may have been sold, destroyed, or otherwise be beyond the power of the captor, in which case only the question of liability with compensation in damages can be considered. In like manner the convention contemplates, in appropriate cases, the retrial of the controversy *de novo*, because the court is made competent not merely to consider the law, but also the facts involved in the case and to take evidence, by virtue of articles 27 and 35, either at the request of one of the parties or upon the court's initiative, and such evidence may be produced before the court itself or before one or more of its members (art. 36). It is thus seen that the convention not only permits evidence to be taken in order to ascertain the facts in controversy, but provides adequate machinery for its presentation, thus permitting a trial of the case *de novo* both as to the facts involved and the law to be applied.

Lest the alternative method contained in the proposal be considered to militate against the speedy determination of the controversy, and that the signatory powers, their subjects and citizens, may seem to be deprived of their right of presenting the controversy to an international court within the time and in the manner prescribed by the convention, the department states specifically that the rights secured under the convention, both as to parties and to the periods within which the proceedings shall begin, are expressly recognized by the United States.

This Government therefore proposes that in the instrument of ratification of the international prize court convention each of its signatories specify, on account of the difficulties of a constitutional nature which, in some States, stand in the way of the ratification of the convention for the establishment of the international prize court, signed October 18, 1907, that any signatory may insert a reservation to the effect that resort to the international prize court in respect of decisions of its national tribunals shall take the form of a direct claim for compensation; that the proceedings thereupon to be taken shall be in the nature of a trial *de novo* of the question at issue; that the judgment of the court shall consist of compensation for the illegal capture, irrespective of the decision of the national court whose judgment is thus called in question, although a certified copy of the national judgment may be submitted to the international prize court for its consideration and information; provided, however, that the effect of this reservation shall not be such as to impair the other rights secured under the said convention either to individuals or to their Governments, including the periods within which resort to the international prize court shall be made.

The acceptance of this proposal might be expressed in the following manner:

Whereas objections of a constitutional nature in certain signatory States render the ratification of the convention for the establishment of an international prize court, signed at The Hague October 18, 1907, difficult or impossible; and

Whereas it is highly desirable that all the powers represented at the Second Hague Peace Conference may be enabled to ratify the convention and cooperate in the labors of the international prize court:

Therefore, the Government of _____, for itself and as far as the signatories of the international prize court are concerned, agrees that any signatory of the aforesaid convention may insert in the act of ratification thereof a reservation to the effect that resort to the international prize court in questions affecting judgments of its national tribunals may take the form of a direct claim for compensation, as provided in article 8, second paragraph, last sentence, of the said convention; that the proceedings thereupon to be had shall be in the nature of a trial de novo of the question of liability involved in the alleged illegal act of the captor; that the judgments of the international prize court shall thereupon, in accordance with article 8 of the aforesaid convention, decree compensation for the illegal capture, irrespective of the decision of the national court involved, although a certified copy of the national judgment and the records of the case shall be submitted upon request to the international prize court for its consideration and information; and that each signatory consenting to the exercise of this optional and alternative procedure, under article 8 of the aforesaid convention, for States with the constitutional difficulties aforementioned, shall specify its consent to such optional and alternative procedure in the instrument of ratification of the international prize court convention:

Provided, however, That the effect of this reservation shall not impair the other rights secured under the aforesaid convention either to governments, their subjects or citizens, or the periods within which resort to the international prize court shall be made.

The Department of State assures the signatories of the convention of October 18, 1907, for the establishment of an international prize court, that the acceptance of this or a substantially similar protocol and its incorporation in the instrument of ratification will remove the constitutional objection to the establishment of the proposed court and will enable the United States to participate in its highly beneficent labors.

The Department of State considers the adoption of the alternative method of procedure for the international prize court as calculated to secure not only its definitive establishment, but, in addition, to render possible the composition of the court of arbitral justice. To bring this subject to the attention of the powers represented at the maritime conference at London, the Department of State on February 6, 1909, instructed its delegates as follows:

In order to confer upon the prize court the functions of an arbitral court contemplated in the first recommendation of the final act of the second conference, the department proposes the following article additional to the draft protocol concerning the prize court, next to the last paragraph of your instructions:

"And any signatory of the convention for the establishment of the prize court may provide further in the act of ratification thereof that the international court of prize shall be competent to accept jurisdiction of and decide any case arising between signatories of this proposed article submitted to it for arbitration, and the international prize court shall thereupon accept jurisdiction and adopt for its consideration and decision of the case the project of convention for the establishment of a court of arbitral justice adopted by the second Hague conference, the establishment of which was recommended by the powers through diplomatic channels.

"Any signatory of the convention for the establishment of the international court of prize may include in its ratification thereof the proposed articles and become entitled to the benefits thereof."

The department earnestly hopes and urges adoption of proposed articles.

The proposal was accordingly made by the American delegation, but it was deemed more advisable to prosecute through diplomatic

channels a matter of such magnitude. Therefore, on March 5, 1909, the department notified the countries represented at the maritime conference of its intention to prepare and transmit an identic circular note, showing—

The advisability of investing the prize court with the jurisdiction and functions of a court of arbitral justice in order that international law may be administered and justice done in peace as well as in war by a permanent international tribunal; that this close connection between the two courts was contemplated by the framers of the arbitral court as appears from article 16 of the draft convention by virtue of which the judges of the arbitral court might exercise the functions of judges in the prize court. The failure to constitute the arbitral court, although the method of appointing judges was substantially the same for both courts, renders this provision ineffective, but it is possible to carry out the intent of the proposers in this and to constitute the arbitral court by investing the prize court with the functions of an arbitral court and to prescribe the draft convention of the arbitral court as a code of procedure when so acting.

It is not the intention of this Government to use pressure of any kind to secure the acceptance of its views, but the United States feels that the constitution of the arbitral court as a branch or chamber of the prize court for the nations voluntarily consenting thereto would not only enhance the dignity of the prize court, but by creating a permanent court of arbitration would contribute in the greatest possible manner to the cause of judicial, and therefore peaceable, settlement of international difficulties.

Pursuant to this notification the Department of State has the honor to make the following observations:

It has been a subject of profound regret to the Government and people of the United States that a court of arbitral justice, composed of permanent judges and acting under a sense of judicial responsibility, representing the various judicial systems of the world and capable of insuring continuity in arbitral jurisprudence, was not established at the Second Hague Peace Conference, and the United States likewise regrets that the composition of the proposed court of arbitral justice has not yet been effected through diplomatic channels, in accordance with the following recommendation of the conference:

The conference recommends to the signatory powers the adoption of the project, hereunto annexed, of a convention for the establishment of a court of arbitral justice and its putting into effect as soon as an agreement shall have been reached as to the choice of the judges and the constitution of the court.

A careful consideration of the project and of the difficulties preventing the constitution of the court, owing to the shortness of time at the disposal of the conference, has led the Government of the United States to the conclusion that it is necessary in the interest of arbitration and the peaceful settlement of international disputes to take up the question of the establishment of the court as recommended by the recent conference at The Hague and secure through diplomatic channels its institution.

The necessary and close connection between the international prize court and the proposed court of arbitral justice was indicated in article 16 of the draft convention of the court of arbitral justice, as follows:

The judges and deputy judges, members of the judicial arbitration court, can also exercise the functions of judge and deputy judge in the international prize court.

The reason which existed in 1907 and led to the formulation of the article still continues. It has therefore occurred to the United States that the difficulty in the way of reaching an agreement upon the composition of the court would be obviated by giving practical effect to article 16 by an international agreement by virtue of which the judges of the international prize court should be competent to sit as judges

of the court of arbitral justice for such nations as may freely consent thereto, and that when so sitting the judges of the international prize court shall entertain jurisdiction of any case of arbitration submitted by a signatory for their determination and decide the same in accordance with the procedure prescribed in the draft convention. In proposing to invest the international prize court with the jurisdiction and functions of the proposed court of arbitral justice the United States is actuated by the desire to establish a court of arbitration permanently in session at The Hague for the peaceful solution of controversies arising in time of peace between the nations accepting and applying in their foreign relations the principles of an enlightened and progressive international law.

It is a truism that it is easier to enlarge the jurisdiction of an existing institution than to call a new one into being, and as the judges and deputy judges of the international prize court must be thoroughly versed in international law and of the highest moral reputation, there can be no logical or inherent objection to enlarging their sphere of beneficent influence in vesting them with the quality of judges of the proposed court of arbitral justice.

The proposal of the United States does not involve the modification either of the letter or spirit of the draft convention, nor would it require a change in wording of any of its articles. It would, however, secure the establishment of the court of arbitral justice as a chamber of the world's first international judiciary and thus complete through diplomatic channels the work of the Second Hague Conference by giving full effect to its first recommendation.

In proposing this solution of the difficulty the United States is influenced by daily practice and procedure in its national courts of justice, where one and the same judge administers law and equity, admiralty and prize, which, under its system of procedure, are different systems of law. The United States therefore proposes that in the instrument of ratification of the International Prize Court Convention, signed at The Hague October 18, 1907, any of its signatories consenting to invest the international prize court with the powers of a court of arbitral justice shall signify its assent thereto in the following form:

Whereas it is highly desirable that the Court of Arbitral Justice, approved and recommended by the Second Hague Peace Conference, be established through diplomatic channels; and

Whereas investing the International Prize Court with the duties and functions of the proposed Court of Arbitral Justice would constitute for the consenting powers the said Court of Arbitral Justice, as recommended by the first vote of the final act of the said conference;

Therefore, the Government of _____ agrees that the International Court of Prize, established by the convention signed at The Hague October 18, 1907, and the judges thereof, shall be competent to entertain and decide any case of arbitration presented to it by a signatory of the international court of prize, and that when sitting as a court of arbitral justice the said international court of prize shall conduct its proceedings in accordance with the Draft Convention for the establishment of a court of arbitral justice, approved and recommended by the Second Hague Peace Conference on October 18, 1907.

The United States is not without precedent in suggesting a modification of a convention of The Hague Peace Conference, for it is common knowledge that article 10 of the Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Conven-

tion of August 22, 1864, was by agreement through diplomatic channels omitted from the ratification of the convention. Germany, the United States, Great Britain, and Turkey objected to article 10 and, on signing, excepted it from the convention. Therefore, M. de Beaufort, minister for foreign affairs of the Netherlands, addressed an identic circular note, dated January 29, 1900, to the signatory powers, in which he said:

This obligation, which the above-mentioned powers did not feel warranted in accepting, as is especially the case with regard to Great Britain, would not be in conformity with the legislation of certain other powers, and, therefore, would meet with opposition in the Parliaments which would have to give their approval in this matter.

Under the circumstances, and also by reason of the desirability that there should be a uniformity established in the respective obligations resulting from this convention for the contracting powers, a uniformity which would be endangered by the reservations made by four of them, the Government of Her Majesty the Queen of the Netherlands deems there should be a means of excluding the ratification of the said article 10, which of itself otherwise is only of secondary interest.

It is to be hoped that if this proposition is accepted—and I am happy to be able to inform you that the Imperial Russian Government entirely agrees with us in our views on this, the subject of the exclusion of the above-mentioned article—the ratification would not meet with any other difficulty of internal form in the different countries, and it could be effected with little delay, which would be highly desirable.

As the result of an exchange of views, the minister of the Netherlands, at Washington, informed the Department of State on April 30, 1900, that:

The former proposition of the Government of the Queen, which formed the subject of Mr. de Beaufort's communication No. 1109, of January 29 last, addressed to Mr. Stanford Newel, suggesting the exclusion of the ratification of article 10 of the convention for the adaptation to maritime warfare of the principles of the Geneva convention, has received the consent of all the States which up to the present have made known their views.

These powers being in the majority, and the adoption of the proposition by the other interested States being probable, it is important that, with a view of expediting the filing of these acts of ratification, a uniform method for emphasizing this exclusion should be established now.

The cabinet of St. Petersburg has suggested, for this purpose, a combination which consists in inserting in the act of ratification a copy of the convention in which the text of article 10 would be replaced by the word "exclu" (excluded) while still preserving the proper numbering of the articles.

Copies prepared in conformity with the method above indicated will be placed at the disposal of those Governments who wish them.

In thus proposing an alternative method for the decision of prize cases submitted to the international prize court and urging the creation of a court of arbitral justice by an apt clause in the instrument of ratification of the convention for the establishment of the international prize court, the United States is influenced by the sincere desire not merely to render its cooperation in the matter of the prize court possible and to secure the constitution of the court of arbitral justice, but is endeavoring in a thoroughly disinterested manner to advance the cause of international justice and peace.

As the Department of State desires to submit the prize court convention as thus understood and explained and the draft convention for the creation of the court of arbitral justice to the approaching session of the Senate for approval and ratification, an early reply to this circular note is earnestly requested.

P. C. KNOX.

Ambassador Hill to the Secretary of State.

No. 570.]

AMERICAN EMBASSY,
Berlin, January 14, 1910.

SIR: Referring to your instruction of November 3, 1909, and the confidential identic circular note proposing alternative procedure for the international prize court and the investment of the international prize court with the functions of a court of arbitral justice, I have the honor to report that I had to-day a long interview with Geheimrat Dr. Kriege, who has been charged by the German imperial secretary of state for foreign affairs with preparing the answer of the German Imperial Government.

Geheimrat Kriege informed me that his Government accepts very heartily the proposal of the United States regarding the alternative procedure, but felt doubtful regarding the expediency and the effectiveness of the method proposed for obtaining the sanction of the other powers. His position is that the reservation desired is too important and the conditions rendering it necessary are too complicated to be adequately formulated and duly agreed to without a separate protocol, and he has kindly furnished the text of a form which he considers more likely to be readily accepted by the signatories of the convention for the establishment of an international prize court. After going over the ground very carefully with him, I am of the opinion that his view is perhaps correct, and in any case I think his suggestion is worthy of serious consideration. I see no objection to the form he has proposed, and I believe it would be advantageous to accept the collaboration of the German Government, which has from the beginning been closely associated with the United States in accomplishing the ends set forth in the identic circular note. I am also of the opinion that the other foreign offices, while they might not decline to adopt the method proposed in the identic circular note, would find the form proposed by Geheimrat Kriege more in conformity with their own conceptions and usages in such cases. If the latter is considered by you adequate for our purposes, it would secure us not only the prompt acceptance but the earnest support of the German Imperial Government.

With regard to the extension of the jurisdiction of the prize court so as to include or, more exactly, to constitute an international court of arbitral justice, the German Imperial Government is in substantial accord with the views expressed by you and will continue to cooperate in accomplishing its establishment.

There are, however, some matters of detail which have been pointed out by Geheimrat Kriege which are worthy of serious consideration. One of these turns upon the compensation of the judges, for in case some but not all of the signatories of the prize court convention should accept this extension of jurisdiction, those nor favoring the court of arbitral justice, if there should be any, would not unreasonably object to having their judges occupied with its business at their expense and might not wish them to be so employed at all. The complete success of the proposal upon the lines laid down in the identic circular note therefore depends upon the absolute unanimity and good will of the signatories of the prize court convention.

To meet this difficulty and to assure the formation of the court of arbitral justice, Geheimrat Kriege proposed a supplementary convention, the form of which he has kindly supplied, by which the court can be formed, even if unanimity is not at first secured, by the association of a sufficient number of powers disposed to sign it, to which others may be subsequently added.

Another point to which Geheimrat Kriege attaches much importance is the possibility that some of the powers may appoint as judges in the prize court persons who are specialists in maritime law, with little acquaintance with the broader and more general aspects of international law, and who would therefore be less qualified to act as judges in the wide range of questions that might come before the court of arbitral justice. If this for any reason should be the case, the court of arbitral justice would not be satisfactorily constituted, and this fact would militate against its highest usefulness. Another consideration of importance is that if any power for any reason were disposed to object to the proposal to extend the jurisdiction of the prize court, this fact could be urged by it as an objection to the plan.

Geheimrat Kriege has proposed to meet this point by providing for the substitution of other judges, if found advisable, for the specialists who might have been appointed to the prize court, and this appears to me a valuable suggestion both for the efficiency of the court of arbitral justice and for meeting any objection under this head which might be raised against it.

There remains one other point of practical importance, namely, the brevity of the time yet remaining before the signature of the agreements should be concluded. It is evident that if pursued in the ordinary way by correspondence it would require a long time to receive, compare, and harmonize the answers of the powers to the identic circular note. Geheimrat Kriege, therefore, suggests that it would greatly facilitate the consummation of the wishes of our Government if a representative of the United States duly authorized could as soon as possible meet at some convenient point representatives of Germany, Great Britain, and France, explain the matter to them, and obtain their acceptance of the protocol and supplementary convention. With this accomplished the other signatories of the prize court could be requested to follow upon the same lines. Geheimrat Kriege would no doubt be designated for this purpose by his Government, and thus we could avail ourselves of his valuable assistance in reaching a conclusion.

I need hardly add that if a meeting with representatives of the three powers mentioned above should seem to you desirable it should be of an informal and confidential nature, with no public announcement regarding it, to the end that no other power could feel slighted. It could very conveniently, Geheimrat Kriege suggests, take place in Paris, which would not excite attention.

I inclose herewith in duplicate the forms proposed by Geheimrat Kriege and await your further instructions.¹

I have, etc.,

DAVID J. HILL.

¹ Not printed.

Ambassador Reid to the Secretary of State.

No. 1180.]

AMERICAN EMBASSY,
London, February 19, 1910.

SIR: Referring to the department's identic circular note of the 3d of November last on the subject of alternative procedure for the international prize court and the investment of this tribunal with the functions of a court of arbitral justice, which I had the pleasure of communicating to the British Government on November 18, 1909, I now have the honor of inclosing herewith the reply of Sir Edward Grey to the proposal of the United States, the substance of which I have cabled to you in brief to-day.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, February 18, 1910.

YOUR EXCELLENCY: His Majesty's Government have given their most careful attention to the proposals contained in the circular note of the Secretary of State of the United States, which your excellency communicated to me in your note of the 18th November last. I regret that owing to the many matters of urgent political importance which have been of late claiming the attention of His Majesty's Government I am only to-day in a position to reply to that communication.

2. The proposals of the United States Government have reference to two distinct matters. As regards, in the first place, the question of providing for an alternative method of procedure in cases brought before the international prize court which is to be set up at The Hague, I have pleasure in informing your excellency that His Majesty's Government, attaching as they do the greatest possible weight to the inclusion of the United States in the number of countries accepting the jurisdiction of that court and recognizing the fundamental nature of the constitutional difficulty in which the United States might find themselves placed by the acceptance en bloc of the stipulations of the prize court convention of The Hague of 1907, are ready, on their part, to cooperate for the purpose of removing that difficulty.

3. It is perhaps a question whether the particular method of proceeding by way of a reservation to be introduced into the ratifications of the prize court convention might not give rise to some practical difficulties. A reservation of this kind would admittedly require the assent of the signatory powers to the rights therein stipulated for, and it seems to His Majesty's Government that such assent might with advantage be recorded in a more direct and conventional form. Apart from this question of form, there are some minor yet not unimportant points respecting which it would seem desirable to make more specific provision than is done in the reservation as worded in the circular note, such, for instance, as the exact manner in which, under the alternative scheme, the reference of individual cases to the international court at the proper moment, and an automatic transfer of the records, shall be guaranteed.

4. Having regard to the eminently beneficial results of the former cooperation in this matter between the four powers which at the second peace conference jointly put forward the proposals eventually adopted for the establishment of the international prize court, I venture to suggest, for the favorable consideration of the United States Government, whether a meeting could not be arranged between representatives of the United States, France, Germany, and Great Britain with a view to their jointly considering the wording of the proposed reservation or declaration. The United States Government will no doubt agree that a personal conference between experts would be likely to lead to a satisfactory result more easily, more quickly, and more surely than would an attempt to settle a text by the more cumbersome method of diplomatic correspondence.

5. A matter of greater complexity is raised by the second proposal put forward in the circular note. The proposal is definitely to establish the judicial arbitration court which formed the subject of a vœu of the second peace conference, and to do so

by means of a declaration of reservation, which the powers who so desire may include in their ratification of the prize court convention, authorizing the international prize court to transform itself into and act as a judicial arbitration court, in accordance with the provisions of and with due observance of the procedure laid down in the draft convention for the establishment of such court annexed to the *vœu*.

6. The United States Government will not, I believe, require of me any fresh assurances as to the genuine and active interest which His Majesty's Government have taken, and continue to take, in the plan of setting up a really permanent and definitely constituted tribunal for the adjustment of international differences. They share the belief of the United States Government that the principal nations of the world are beginning to feel the want of a true international law court that is of a jurisdiction to which disputes can be submitted without the preliminary difficulty of constituting the tribunal in each case and agreeing upon its attributes, composition, and procedure. Holding this view, they are, as they have been in the past, not merely willing but anxious to coöperate to the best of their ability to the end of creating such a court. The British delegates at the second peace conference were unremitting in their efforts to secure the general adoption of a scheme in whose elaboration, indeed, they had, under the instructions of their Government, taken an honorable part side by side with their colleagues of the United States, France, and Germany. The scheme, as is well known, only failed because no acceptable solution could be found of the difficulty caused by the claim of the overwhelming majority of the powers that all independent States should be equally represented on the bench of judges.

7. It will be remembered that a similar difficulty very nearly wrecked the convention for the establishment of an international prize court. I need not recapitulate the prolonged negotiations and discussions which were needed to secure its acceptance by The Hague conference. The chief consideration, there is no doubt, which finally prevailed, and by which the assent of the less favored nations was gained to a scheme departing in a measure from the principle of equality of representation, was the direct and important advantage to every power to obtain that effective means of protection for its interests as a neutral which flows from the right to carry before an international court of the highest integrity and impartiality appeals from the national courts of belligerents. Whilst gaining this clear advantage, it was recognized that States not possessing large naval forces, though equally interested in the protection of their commerce when neutral, were less likely to have their belligerent actions affected by the authority of an extra-national tribunal. It was, moreover, found possible substantially to redress in practice the unavoidable element of inequality by providing that in the event of a power not at the moment represented on the bench of judges being a party, as a belligerent, to a case before the court such power should, for the time and purpose of the proceedings in that case, invariably have its own judge on the bench of the tribunal.

8. These considerations were successful in overcoming the reluctance at first felt by many of the powers to accept the prize court convention, but they were not of a nature to influence their attitude of opposition to the convention for the establishment of a judicial arbitration court, because in this case the circumstances were seen to be essentially dissimilar. There was in fact no particular inducement to the majority of the powers to submit in all those matters of a general character which may properly become the subject of international arbitration to the jurisdiction of a court the composition of which was held by them to be derogatory to their dignity. In all such matters it was felt that each one State had as much to lose as another, and the preponderance of the great powers on the bench of the court, to which objection was taken, appeared to be set off by no countervailing special advantages rendering such an arrangement acceptable on grounds of political expediency. An effort was made by the subcommittee which prepared the draft convention to devise a scheme of proportional representation which, since it did not need, as in the case of the prize court of appeal, to take into account the comparative maritime standing of the respective States, could apportion the degree of representation of each more closely to its relative general position in the community of nations. But although His Majesty's Government on their part see no reason to call in question the essential justice and fairness with which this embarrassing and ungrateful task was carried through by the subcommittee, the difficulty of securing general acceptance for any classification, however reasonable, of the powers according to their degree of importance proved at the time insuperable.

9. The impression derived by His Majesty's Government from the record of the discussions at The Hague was that unless in some way not at present clear to them the principle of equality of representation could yet be introduced into the scheme

of the judicial arbitration court, that scheme would continue to meet with the same hostility; nor has any information since reached His Majesty's Government tending to indicate any change of disposition on the part of the powers in this respect.

10. This difficulty the United States now propose to get over by adopting for the judicial arbitration court the particular system of proportional representation which is to prevail in the international prize court. Having regard to the fact that this system was only reluctantly, and not without a number of reservations, agreed to in respect to the latter court for special reasons, which do not apply to the case of a general arbitration tribunal, and seeing, moreover, that it is in many respects actually less favorable to the large and important proportion of the powers which declined to accept even the more advantageous plan of representation of the original draft convention for the establishment of a judicial arbitration court, His Majesty's Government can not but apprehend that the proposal in its present shape is likely to encounter opposition in the same quarters.

11. The United States Government appear to anticipate that this opposition may be effectively disarmed by the fact that their proposal "does not involve the modification either of the letter or the spirit of the draft convention, nor would it require a change in wording of any of its articles." This is no doubt correct, but it is equally true that without some additional stipulations in the place of the clauses which, in the original draft, regulated the composition of the court, the convention recommended by the second peace conference could not become operative, as is indeed explicitly said in the words of the *vau* of that conference. This position of the case is to some extent veiled, but is not really altered by proposing to relegate such complementary provisions to a different instrument not formally connected with this particular convention, namely the ratification of another and altogether distinct convention, treating of a court to be established for an entirely and specifically different purpose. When it is realized that the provisions to be so introduced are in principle the same as those which had to be excised from the original scheme as the price for agreement on the remainder, it seems to His Majesty's Government difficult to feel assured that the powers which refused every plan of proportional representation at The Hague will now be found ready to accept a less favorable version or it without raising further difficulties.

12. His Majesty's Government earnestly hope that should such difficulties arise they may be overcome by further diplomatic negotiation with the powers concerned. But so long as there is uncertainty as to the immediate success of such efforts they doubt whether it would be politic to link together too markedly and too closely the scheme of a judicial arbitration court with the prize-court convention. It appears to them that there would be a serious danger of thereby alienating the sympathies of a number of important powers from the international prize court itself, which they might be led to look upon as an instrument for forcing upon them the definite relinquishment of their claim to be treated on a footing of general equality with all the other members of the community of nations. Allusion has already been made to the extreme reluctance with which they agreed to waive this claim in respect to the particular case of representation on the international prize court. If a suspicion should be engendered in their minds that the concession which they were ready to make for an exceptional and strictly defined purpose is to be extended so as to become a rule of more or less general application and a precedent for the abandonment of the cherished principle of equality on other occasions and in more far-reaching questions, they might be impelled to reconsider their attitude in regard to the prize court convention and rather to forego the advantages which its establishment would confer than to suffer what they would regard as a derogation from their national dignity.

13. The ratification of the prize-court convention by as many powers as possible is a matter to which His Majesty's Government attach the very greatest importance, and they venture to think that the general acceptance of the jurisdiction of the international prize court would for the United States Government also have a value out of all proportion to the risk of losing the adherence of a large number of states—a risk which would attend any attempt to set up the judicial arbitration court on the basis proposed before the prize-court convention had been actually ratified by a substantial proportion of the countries whose representatives accepted it at The Hague in 1907.

14. No doubt the great naval powers, with perhaps the support of a few others which may feel satisfied with the degree of representation allotted to them in the international prize court, would be able between them to set up the judicial arbitration court on the lines proposed by the United States Government, but this might involve the indefinite, if not permanent, exclusion of most of the other powers. His Majesty's Government are not unmindful of the fact that the court might, by the reduction in the number of judges, gain in strength and efficiency what it would lose in representative character and in geographical extent of jurisdiction, and they do not wish to be understood absolutely to reject such a plan. But before proceeding to adopt a course which appears to

them only too likely to preclude the participation of a large majority of states, they would have liked to feel assured that there was in fact no other means of attaining the desired end, and that every effort had been made to arrive at an understanding. They are somewhat reluctant to admit that every possibility of devising a method of constituting the court that should find favor with all the powers has as yet been exhausted, and that the last word has been said on the subject. Hoping as they do that a new plan might yet be discovered, answering to the acknowledged requirements without running counter to principles largely held to be vital, they feel that now to take up a scheme which does not command general assent may be considered by a majority of nations to prejudice any chance of a more satisfactory result being attained at a third peace conference.

15. I can not conceal from your excellency that for these reasons His Majesty's Government would have preferred that the several powers should, in anticipation of such a conference, endeavor to think out and submit to the practical test of elaboration in detail schemes which they themselves would be willing to accept, in the expectation that a comparison, or perhaps a partial fusion, of such schemes might help to bring in sight a workable general agreement. His Majesty's Government were the more disposed to favor this course because further consideration of the draft convention recommended by the second peace conference, combined with a study of recent political developments within the British Empire, has induced a doubt whether the requirements of this country could be quite suitably met by a scheme which makes it impossible to take account of the special position of the British self-governing colonies and possessions in cases of arbitration where the subject-matter in dispute affects important colonial interests.

16. Seeing, however, the value which the United States Government clearly attach to a more speedy realization of the scheme for setting up a permanent arbitration tribunal, and their confidence in the possibility of successfully meeting the difficulties involved, His Majesty's Government do not wish to stand in the way of any effort to carry out the recommendation of the second peace conference on the lines favored by the United States, so long as the general ratification of the prize-court convention is not thereby jeopardized, and so long as no other solution presents itself. I need not reiterate the objection which, from this point of view, militates against using the instrument of ratification of that convention as the means of setting in motion the machinery of the judicial arbitration court. Independently of that objection it would also, in the opinion of His Majesty's Government, be necessary to make separate provision in regard to a number of points in respect to which the analogy of the corresponding stipulations in the prize-court convention is not sufficiently precise, and on which, accordingly, the articles of the draft convention for the establishment of a judicial arbitration court would require to be supplemented. This is the case, for instance, as regards the representation on the bench of judges, as a matter of course, of any power that may be a party to a dispute brought before the court.

17. It seems to His Majesty's Government that the most satisfactory method of dealing with these technical matters of form might well be discussed in the first instance by the expert representatives of the four powers which were responsible for the preparation of the original scheme. Should the suggestion which I have made in section 4 of the present note for an informal conference of this nature recommend itself to the United States Government, I have every confidence that the experts would be able to settle upon the most appropriate method of attacking the problem of the judicial arbitration court. I may add that I have ascertained, by inquiry at Paris and Berlin, that a proposal for such a conference would meet with no opposition on the part of the French and German Governments.

I have, etc.,

E. GREY.

Ambassador Bacon to the Secretary of State.

No. 47.]

AMERICAN EMBASSY,
Paris, February 25, 1910.

SIR: I have the honor to send herewith a copy of the note ¹ dated November 23, which Mr. Bailly-Blanchard addressed to the minister of foreign affairs in compliance with your instructions of November 3 last, in transmitting the identic circular note with reference to the international prize court and its investment with the functions of a

¹Not printed.

court of arbitral justice. I also inclose the copy and translation of the communication received from Mr. Pichon, in reply, under date of February 15.

I have, etc.,

ROBERT BACON.

[Inclosure—Translation.]

The Minister for Foreign Affairs to Ambassador Bacon.

MINISTRY FOR FOREIGN AFFAIRS,
Paris, February 15, 1910.

MR. AMBASSADOR: By a letter dated November 23, 1909, Mr. Bailly-Blanchard, chargé d'affaires of the United States at Paris, transmitted to me in behalf of Mr. P. C. Knox, Secretary of State, the identic circular note No. 15, dated October 18, 1909.

I have examined with particular attention the contents of this document, which has for object the proposal of means for bringing definitely into force two institutions created by the second peace conference—*i. e.*, the prize court and the court of arbitral justice.

I am happy to inform your excellency that the Government of the Republic is entirely in favor of the initiative taken by the American Government to bring into the domain of practice the two jurisdictions instituted in 1907 at The Hague.

As regards the two particular points of the American proposition, the following are the reflections which their statement has suggested to me:

1. *International prize court.*—It is of capital interest that this international court, generally regarded as one of the most important results of the conference of 1907, should act. This is of consequence especially to the United States and France, who, with Germany and Great Britain, have taken the initiative of the project of the prize court. The present proposition of the United States is a sequel of the *vœu* adopted by the naval conference of London on the report of the French delegate. I can not, therefore, be otherwise than favorable to the American suggestion, and I have no objection to the basis.

As regards the definitive form to give to the reserves which appear to be imposed upon certain States by their constitutions, it would seem to me opportune to draw up on this subject a "complementary convention" of the 1907 convention on the prize court, "complementary convention" to which each power would be at liberty to refer in ratifying and which would reproduce the substance itself of the American proposition.

If the Government of the United States were favorable to this method, which would do justice to its observations with more clearness than a simple reserve and would realize the vote of the conference of London, the terms of the "complementary convention" could be elaborated by a technical committee composed of the representatives of the four powers which have taken the initiative of the prize court. This text once drawn up, the four powers could unite their efforts to have it accepted by the other signatory powers of the convention on the prize court.

In case this view should meet, in principle, with the approbation of the United States Government, it is urgent that this committee be assembled, because the delay accorded for the ratification of the convention on the prize court expires June 30, 1910. Hence it would be opportune to fix before Easter the terms of the "complementary convention."

2. *Court of arbitral justice.*—On this question, as on the preceding one, the efforts of the French Government have been joined to those of the United States Government at the time of the second Hague conference, to bring to a conclusion the project for the permanent court of justice. I can only therefore be favorable in principle to the initiative taken by Mr. Knox, who was the first to raise the question of the realization of the vote of the second peace conference relative to the court of arbitral justice.

As to the definitive solution to be given, there is reason to inquire whether a distinct connection was not rather indicated than a simple reserve inserted in an act of ratification, to give to the court of arbitral justice the means it still lacks.

Another reason militates in this direction. It does not seem, in fact, possible to limit oneself to saying that the international prize court will act as a court of arbitral justice; for all the powers which will accept the first may not accept the second, and the prize court could not be adapted to an object other than its own without the unanimous consent of the powers which have established, on the one hand, the prize court; on the other, the court of justice.

But there is here above all a question of form to examine, and none could be more competent in this respect than the technical committee to which I have alluded. It could make an exchange of views as to the best solution to offer in order to come to an understanding, first, between the four powers represented and afterwards between all the signatory powers.

When your excellency shall have been informed of the dispositions of the Government at Washington in these matters, I shall be extremely obliged if you will be so good as to let me know at once, so that all measures may be taken not to allow the period of delay for ratification to expire before a solution has been arrived at.

Accept, etc.,

S. PICHON.

File No. 12655/408.

The Secretary of State to Ambassador Reid.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 3, 1910.

Mr. Knox refers to Mr. Reid's dispatch No. 1180 of the 19th ultimo, and states that Sir Edward Grey's proposal for a conference of the four interested powers be held at Paris is accepted by this Government. Mr. Knox says that Dr. James Brown Scott, technical delegate to The Hague conference, has been instructed to meet the duly authorized representatives of Great Britain, France, and Germany in Paris on the 18th instant in order to discuss the modification of the prize court convention and the establishment of a court of arbitral justice, and to draw up documents necessary for both upon the general lines suggested in the identic circular note.

Mr. Knox adds that the Government of the United States hopes that a satisfactory agreement may be reached at the coming conference for the simultaneous establishment in the immediate future of both institutions.

Ambassador Hill to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, March 26, 1910.

Mr. Hill reports that the foreign office has requested him to telegraph the following to the department:

BERLIN, March 25, 1910.

The undersigned has the honor to confidentially inform his excellency, Mr. David Jayne Hill, ambassador of the United States of America, in supplement to his note of the 10th instant, that the discussion in Paris between representatives of the United States, Germany, France, and Great Britain has resulted in the adoption of the two inclosed proposals of a supplementary protocol to the prize court convention and a convention for the establishment of the arbitration convention proposed at the Second Hague Peace Conference, which are to be submitted by the said representatives to their Governments for their approval.

The Imperial Government assents to these proposals and to the procedure also recommended by the representatives. According to this the United States Government, in case the four powers agree, is first to submit the supplementary protocol to the prize court convention to the Government of the Netherlands with the request that it be communicated to the other signatory powers to this agreement; this request would be

¹Mutatis mutandis to Ambassador Hill. at Berlin, referring to dispatch No. 570, of Jan. 14.

supported by the ministers of Germany, France, and Great Britain accredited to The Hague. When the supplementary protocol shall have been signed, and upon the subsequent ratification of the convention, the good offices of the Government of the Netherlands are similarly to be requested with a view to having the proposal of an arbitration convention laid before the powers represented at the Second Hague Peace Conference. There would, however, take place previous to such action, probably in June, a further discussion between the representatives of the four powers for the purpose of reaching a definite agreement respecting article 8, which was only provisionally accepted by the representatives of the United States and Great Britain, and of making such minor textual changes as may be necessary.

The Secretary of State to Ambassador Hill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 29, 1910.

Mr. Knox refers to Mr. Hill's telegram of March 26 and directs him to express the gratification of the department over the results of the conference of representatives of the United States, Germany, France, and England at their recent meeting in Paris, called at the happy suggestion of the German foreign office for the consideration of the projects proposed in department's note of October 18, 1909. Mr. Knox says that this Government is pleased to signify its assent to the proposals as to the additional protocol modifying the prize court convention, and only waits the assent of the Governments of England and France before bringing the matter to the attention of the Netherlands Government in accordance with the procedure agreed upon at the Paris conference, and adds that the department, with peculiar interest and sympathy, now but awaits the receipt of the full French text of the convention for the establishment of the court of arbitral justice, in order to be in a position to signify its formal assent to the articles of the convention on this important subject so far as agreed upon at Paris.

File No. 12655/434.

Ambassador Reid to the Secretary of State.

[Extract.]

No. 1229.]

AMERICAN EMBASSY,
London, March 30, 1910.

SIR: With reference to previous correspondence in regard to the informal negotiations which have been taking place at Paris between the delegates of the Governments of the United States of America, France, Germany, and Great Britain respecting the proposals put forward in the department's identic circular note of October 18 last, I have the honor to inform you that I am to-day in receipt of a note from the foreign office, dated March 29 (copy inclosed), stating that the British Government has received a most satisfactory report of the result of these informal negotiations.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, March 29, 1910.

YOUR EXCELLENCY: With reference to my note of the 9th instant I have great pleasure in informing your excellency that I have received a most satisfactory report of the result of the informal negotiations which have taken place at Paris between the delegates of the Governments of the United States of America, France, Germany, and Great Britain respecting the proposals put forward in Mr. Secretary Knox's identic circular note of October 18 last.

The delegates were able to adopt "ad referendum" (1) a draft additional protocol making provision for the adoption of an alternative procedure in the international prize court and (2) a draft convention for the establishment of a judicial arbitration court. It was an essential condition of their agreement that the existence of the draft convention should be kept strictly secret until the additional protocol has been signed by all the powers signatory of the prize court convention of October 18, 1907, and ratified by a sufficient number of them to allow of the nomination of nine judges and nine deputy judges.

Subject to this proviso I have the now the honor to state that His Majesty's Government accept the text of the two above instruments as settled by the four delegates at Paris, of which copies are annexed hereto. They are, furthermore, ready, should this course recommend itself to the three other Governments, to instruct His Majesty's minister at The Hague to support a request to be addressed by his United States colleague to the Netherlands Government that they should, as soon as may be, submit the additional protocol to the signatory powers of the prize court convention for their acceptance.

In requesting your excellency to bring the above to the notice of your Government as soon as possible, I beg you to express to them the gratification of His Majesty's Government at the success of this cordial cooperation between them in a cause which they both have so much at heart.

I have, etc.,

(For the Secretary of State.)
W. LANGLEY.

Minister Beaupré to the Secretary of State.

No. 331.]

AMERICAN LEGATION,
The Hague, March 31, 1910.

SIR: I have the honor to refer to the department's unnumbered dispatch of the 3d of November last, directing the legation to transmit immediately to the minister for foreign affairs of the Netherlands the printed identic note which was inclosed therewith, and to express to the minister the great interest which our Government takes in the acceptance of the proposals contained in the identic circular note, and to request as early action thereon as the importance of the proposals would permit. In response to this dispatch, I now have the honor to forward to the department herewith copy and translation of the reply of the minister for foreign affairs, under today's date, to the identic note in question.

I have, etc.,

A. M. BEAUPRÉ.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Minister Beaupré.*GOVERNMENT OF FOREIGN AFFAIRS,
The Hague, March 31, 1910.

SIR: In your letter of the 18th November last your excellency kindly inclosed a circular note containing two proposals on the part of the Government of the United States, one regarding the removal of difficulties of a constitutional nature which prevent the ratification by the above-mentioned Government of the convention for the establishment of an international court of prize, the other looking to the end of investigating the international court of prize with the authority of the international court of justice proposed at the second peace conference.

As to the first of these proposals, the Queen's Government, attaching great importance to the ratification by the United States of the convention for the establishment of an international court of prize, is quite ready to act in agreement with the above-mentioned Government to find a solution of the difficulties. The Government of the United States believes that the desired end will be attained if the powers have the authority to treat the claims before the international court of prize as simple requests for indemnity following capture, and not as appeals from the decisions of the national courts of prize. For this purpose, the Government of the United States proposes to insert a reservation in the act of ratification of the above-mentioned convention.

The Government of the Netherlands, desirous of obtaining the esteemed concurrence of the United States in the convention of London, after a careful examination of the proposal, desires to express the opinion that this procedure would not indicate precisely enough the modifications introduced in the existing provisions of the convention relating to the establishment of an international court of prize. For this reason, the conclusion of an additional convention appears preferable.

The Government of the Queen, therefore, is in accord with the suggestion, expressed by several other powers, of submitting the preparation of an additional convention to a committee composed of representatives of the four powers who assumed the initiative of the court of prize—namely, Germany, the United States, France, and Great Britain.

As to the second proposal of the Government of the United States relating to a court of arbitral justice, the Government of the Queen fears that an attempt to carry into effect this proposal concurrently with the first will cause regrettable delays in the ratification of the prize convention; on the other hand, there appears to be nothing to prevent a preliminary examination of this proposal by the above-mentioned committee, the result of which examination to serve as a basis for an exchange of ulterior views on the question.

Accept, etc.,

R. DE MAREES VAN SWINDEREN.

The Acting Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 31, 1910.

Mr. Wilson directs Mr. Reid to express the gratification of the State Department over the results of the conference of the representatives of the United States, England, Germany, and France at their recent meeting in Paris, suggested by the other Governments concerned, for the consideration of the projects proposed in Department's note of October 18, 1909. Mr. Wilson says that this Government is pleased to signify its assent to the proposals as to the additional protocol modifying the prize court convention, and as the Governments of England and Germany have now assented, this Government only waits the assent of the Government of France before bringing the matter to the attention of the Netherlands Government in accordance with the procedure agreed upon at the Paris conference. Mr. Wilson adds that the department, with peculiar interest and sym-

pathy, now but awaits the receipt of the full French text of the convention for the establishment of the Court of Arbitral Justice in order to be in a position to signify its formal assent to the articles of the convention on this important subject so far as agreed upon at Paris.

The Secretary of State to Ambassador Reid.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 15, 1910.

Mr. Knox instructs Mr. Reid to inform the foreign office that the department accepts both projects and procedure recommended by the Paris conference to modify the prize court and to establish a court of arbitral justice; that while the department prefers the consent of 15 instead of 18 to establish the arbitral court and regards consent of 15 as giving sufficient international character to the proposed court, it nevertheless defers to the judgment of its associates and accepts the arbitral court project as recommended by the Paris conference without modification or reserve.

Mr. Knox says that the acceptance of Germany of both projects and procedure has been received but the department anxiously awaits the approval of France in order to give necessary instructions to the American minister at the Hague. Mr. Knox adds that upon acceptance by France the necessary instructions will be given in the form agreed upon by the conference.

The Secretary of State to Ambassador Hill.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 15, 1910.

Mr. Knox instructs Mr. Hill to inform the foreign office that the department accepts both projects and procedure recommended by the Paris conference to modify the prize court and to establish a court of arbitral justice; that while the department prefers the consent of 15 instead of 18 to establish the arbitral court and regards consent of 15 as giving sufficient international character to the proposed court, it nevertheless defers to the judgment of its associates and accepts the arbitral court project as recommended by the Paris conference without modification or reserve.

Mr. Knox says that the acceptance of Great Britain of both projects and procedure has been received, but the department anxiously awaits the approval of France in order to give necessary instructions to the American minister at The Hague. Mr. Knox adds that upon acceptance by France the necessary instructions will be given in the form agreed upon by the conference.

The French Chargé to the Secretary of State.

[Translation.]

FRENCH EMBASSY,
Washington, April 17, 1910.

MR. SECRETARY OF STATE: The minister for foreign affairs has just forwarded to me a note relative to your excellency's propositions dated October 18, last, in regard to the court of arbitral justice.

By order of my Government I have the honor to transmit to your excellency the text of the said note:

In consequence of Mr. Knox's identic circular note of October 18, 1909, pourparlers took place in Paris between the delegates of France, Germany, the United States, and Great Britain concerning the prize court and the court of arbitral justice.

As regards the prize court a draft of additional protocol was proposed by the delegates to enable the Government of the United States to avoid constitutional difficulties. Desiring to facilitate the ratification of the prize court by the American Government, the Government of the Republic accepts the proposed protocol, although it has no intention to derive any advantage from its provisions, but stands on the convention of 1907, which vested the prize court with a truly supreme international jurisdiction. While instructing its representative at The Hague in that sense the Government of the Republic will make it known that it holds the prize-court question to be one that must be entered in the program of the third conference at The Hague, where all the powers will be permitted to discuss the modifications made in the convention of 1907 by the declaration of London or the additional protocol.

As regards the court of arbitral justice, the Government of the Republic likewise agrees with that of the United States on the necessity of putting the court into operation. It believes, however, that it is expedient, as decided by the committee of the four delegate powers, to establish a distinction between that and the prize court. When the convention governing the last-named court shall have been ratified by enough States to permit of its going into effect, the putting into operation of the court of arbitral justice ought to be immediately proposed. An additional exchange of views will be necessary on that point before framing the final text that will be submitted to all the powers concerned.

Accept, etc.,

PIERRE LEFÈVRE-PONTALIS.

Ambassador Leishman to the Secretary of State.

No. 212.]

AMERICAN EMBASSY,
Rome, April 19, 1910.

SIR: Referring to the department's unnumbered instruction of November 3, 1909, and to the embassy's dispatch No. 136 of January 17, 1910, in regard to the alternative procedure for the international prize court and the investment of this tribunal with the functions of a court of arbitral justice, I have the honor to inclose herewith a copy of a note from the royal ministry of foreign affairs, together with a translation thereof.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Ambassador Leishman.*MINISTRY FOR FOREIGN AFFAIRS,
Rome, April 14, 1910.

MR. AMBASSADOR: On January 15 last my predecessor had the honor to declare to your excellency that the King's Government had received favorably, in the main, the two proposals formulated by the American Government in its circular of October 18, 1909 (attached to the embassy's note of November 24), in regard to the international prize court and the court of arbitral justice, reserving to itself, however, the right to state in a later reply their own understanding in regard to them.

In confirming these declarations, I have the honor, however, to complete them with the following information:

1. In regard to the first proposal, which concerns the manner of placing before the international prize court the questions which, according to the terms of the convention of 1907, should be carried up to it in the form of recourse from the sentences of the national judicial authorities, the King's Government has no substantial objections against the desire expressed by the American Government. The considerations proposed in the above-mentioned circular amply justify, in our opinion, the proposals formulated by it, without substantially impairing the efficacy of the agreement and the authority of the new jurisdiction which is to be instituted; they will serve to agree better with the laws in force in the single States, and, eliminating the difficulties which might prevent, on this proposal, the participation of some of them in the new institution, they will insure—as is the desire and wish of all—the full practical operation of the work of the second conference of The Hague in what constitutes the, perhaps, most notable result of its labors. The Government of the King was anxious to examine accurately to see if it would not be well to introduce some slight modification in the formulas suggested in the circular of October 18, 1909, for the full safeguarding of the rights and of the terms established in the convention of 1907, as, as a matter of fact, is declared in the final clause of the formulas referred to. It occurring to me, however, that new clauses and new suggestions might perhaps be added in accordance between the American Government and that of other countries, to the Governments of the States which subscribed to the conventions of The Hague, in regard to the manner most opportune of the proposal in question, I reserve the right to express in due time, also in regard to this proposition, the point of view of the King's Government.

2. In regard to the second proposal, which concerns the competency of the international prize court to act as a court of arbitral justice in whatever controversy which the contracting States should bring before it, according to the project of the convention which the second peace conference compiled and recommended for the institution of the latter, the King's Government would not have, in as far as it is concerned, motive to reject the proposals of the American Government. Mindful, however, of the difficulties with which the institution in question met on the part of not a few of the States which participated in the conference—difficulties which might to-day prevent the constitution of the same prize court or perhaps hinder the adhesion of the said States to the same if the ratification of the convention in question were subordinated or in any manner joined to the new agreements and to the declaration suggested in the circular of October 18—I should consider it more opportune that all further concrete negotiations on this subject should be postponed until the ratification of the convention relative to the prize court shall have taken place within the time agreed upon, which is now about to expire.

This, however, does not prevent an exchange of ideas from being useful in the meantime also in this respect between the States which received with the greatest interest the plan for the institution of both the courts.

A. DI SAN GIULIANO.

Minister Beaupré to the Secretary of State.

No. 350.]

AMERICAN LEGATION,
The Hague, April 23, 1910.

SIR: I have the honor to refer to the department's telegram of yesterday's date and to my reply ¹ of this afternoon in regard to the matter which was brought to my attention by the Hon. James Brown Scott on the 27th ultimo. In compliance with the department's instruction, I have this day presented the note, of which I inclose copy, to the minister for foreign affairs of the Netherlands, inclosing therewith the copy of the proposed additional protocol mentioned therein, which was left with me by Dr. Scott. As that proposed protocol is already in possession of the department, I do not inclose a copy herewith.

Immediately upon receipt of the department's telegram I communicated with the legations of Germany, France, and Great Britain at this capital to ascertain what, if any, instructions had been received by them in regard to approving the proposal of the United States to submit, to the powers signatory of the convention for the establishment of an international court of prize signed at The Hague October 18, 1907, an additional protocol proposing certain modifications, set forth therein, of the prize court convention to overcome difficulties of a constitutional nature preventing or rendering uncertain the ratification, in the present form, of the prize court convention by countries in which such constitutional difficulties may exist. I learned from His Britannic Majesty's minister that while he had been fully informed in regard to the matter in question, he had as yet received no instructions to take any definite action in the premises. The German minister had received no instructions. The French minister was in possession of all the facts in regard to the recent conference at Paris of the representatives of the four powers, joint proposers of the prize court convention at the second peace conference, and had received from his Government not only a copy of the additional protocol, but instructions which direct him to support (appuyer) the proposal of the United States. I informed him that I had communicated to the Netherlands Government the intention of the United States to request that the Government of the Netherlands, as the intermediary of the Hague signatories, transmit, with its favorable recommendation, a circular note to the signatories of the prize court convention, as soon as the Governments of Germany, France, and Great Britain, joint proposers of the original prize court convention, should have signified their approval of the additional protocol and of the proposed method of procedure. It seemed best to him, however, for the time being, to await the arrival of instructions to the German and British ministers before taking any action, and to consult with them with a view to taking the same, or similar, action in the matter.

I have advised the department of these facts by cable.

I am, etc.,

A. M. BEAUPRÉ.

¹ Not printed.

[Inclosure.]

*Minister Beaupré to the Minister for Foreign Affairs.*AMERICAN LEGATION,
The Hague, April 23, 1910.

SIR: I have the honor to recall to your excellency's attention the fact that in the month of November, 1909, the Government of the United States addressed to the powers signatory of the convention for the establishment of an international court of prize, signed at The Hague October 18, 1907, and represented at the recent naval conference at London (Dec. 4, 1908-Feb. 26, 1909), an identic circular note of the Secretary of State of the United States, dated October 18, 1909, proposing, as far as the present purpose is concerned, certain modifications of the prize court convention in order to overcome difficulties of a constitutional nature which either prevent or render uncertain the ratification in its present form of the prize court convention by countries in which such constitutional difficulties may exist, and which, unless overcome, may deprive such countries of participation in the beneficent results to be expected from the establishment and operation of the international court of prize. As a participant in the naval conference at London, your excellency's Government is aware that the delegates of the United States to this conference called attention to the constitutional difficulties which militate against the ratification of the prize court convention in its present form by the United States, and that the conference unanimously adopted the following *vœu*:

"The delegates of the powers represented at the naval conference which have signed, or expressed the intention of signing, the convention of The Hague of the 18th October, 1907, for the establishment of an international prize court, having regard to the difficulties of a constitutional nature which, in some States, stand in the way of the ratification of the convention in its present form, agreed to call the attention of their respective governments to the advantage of concluding an arrangement under which such States would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that resort to the international prize court in respect of decisions of their national tribunals shall take the form of a direct claim for compensation; provided, always, that the effect of this reservation shall not be such as to impair the rights secured under said convention, either to individuals or to their governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the powers signatory of that convention."¹

Upon the receipt of the text of this *vœu* the Government of the United States, on March 5, 1909, cabled its diplomatic agents accredited to the powers represented at the naval conference its intention to "send an identic circular note to each of the participating powers, setting forth at length the reasons which influence the United States to request a rehearing *de novo* of a question involved in a national prize decision, and the means whereby this change of procedure may be effected without interfering with the rights of governments or individuals under the prize court convention."

The responses of the various powers to the identic circular note dated October 18, 1909, setting forth in detail the modifications to be made in the prize court convention in order to permit the United States and other powers, which may possess the same constitutional difficulties, to ratify the convention in a modified form, were so favorable in principle as to justify the United States in taking further action to secure through diplomatic channels the acceptance of the proposed modifications, so essential to the prompt and final establishment of the international court of prize. The United States, therefore, consulted the Governments of Germany, France, and Great Britain, as joint proposers with the United States of the prize court convention at the Second Hague Peace Conference, in order to prepare a text of an additional protocol to the original convention which, without violating its spirit and while preserving intact the rights guaranteed to its signatories, might nevertheless be calculated to enable the United States, and such other powers in which difficulties of a like constitutional nature may exist, to accept without delay the convention as modified and secure at the earliest possible moment the establishment of the international court of prize.

I have the pleasure and the honor to inform your excellency that the inclosed text of an additional protocol meets with the approval of the proposers of the original convention, and that, in their opinion, its acceptance seems calculated to obviate the constitutional difficulties which may exist in some countries without sacrificing any of the fundamental purposes of the convention and without prejudicing the rights secured to the signatory powers, their subjects or citizens. I therefore beg your excellency to give early attention to the inclosed copy of the additional protocol, in

¹ See Foreign Relations, 1909, p. 318.

order that the Government of the Netherlands may be enabled, as the intermediary of the Hague signatories, to transmit in the very near future and with the favorable recommendation of your excellency's Government a circular note to the signatories of the prize court convention, upon the request of the United States, as soon as the Governments of Germany, France, and Great Britain, joint proposers of the original prize court convention, shall have signified to your excellency's Government their approval of the additional protocol and of the proposed method of procedure.

Upon being informed that the Governments of Germany, France, and Great Britain have formally notified your excellency of their approval, both of the additional protocol and of the procedure to be followed, I shall present the formal request of my Government that your excellency transmit a circular note to the signatories of the prize court convention.

In informing your excellency of the desires of the United States and of the joint proposers of the prize court convention, I beg to assure your excellency that my Government is actuated solely by the sincere desire to secure the ratification of the prize court convention at the earliest possible moment and in such a form as to enable the United States and the other countries in which constitutional difficulties may exist regarding the acceptance of the original convention to participate in the labors of the international court of prize and the beneficent results so universally, so confidently and justly, expected from its establishment and successful operation.

I avail, etc.,

A. M. BEAUPRÉ.

The Secretary of State to the French Chargé.

DEPARTMENT OF STATE,
Washington, April 25, 1910.

SIR: I have the honor to acknowledge receipt of your note of the 17th instant, in which you quote an instruction received from your Government setting forth its views concerning this department's identic circular note of October 18, 1909, regarding the prize court and the court of arbitral justice.

The department is much gratified at the attitude of your Government and regards your note as a substantial acceptance of the additional protocol for the modification of the international prize court and the draft convention for the establishment of the court of arbitral justice, after the prize court has been ratified by a sufficient number of States to permit it to go into operation.

The department notes your Government's suggestion that a further exchange of notes be made with a view to prepare a definitive text of the convention for putting into effect the court of arbitral justice, and will at the proper time cooperate with the interested powers in the formulation of a definitive text.

Accept, etc.,

P. C. KNOX.

Minister Beaupré to the Secretary of State.

[Extract.]

No. 353.]

AMERICAN LEGATION,
The Hague, May 3, 1910.

SIR: Yesterday morning the representatives of the Governments of Germany, Great Britain, and France called upon me at the legation and acquainted me with the fact that they had each received instructions from their respective Governments to approve the proposal of the United States that the Government of the Netherlands be requested, as the intermediary of the Hague signatories, to transmit

to the powers signatory to the prize court convention a circular note embodying the additional protocol. The French minister, however, added that he had very definite instructions from his Government to divide his communication to the Netherlands Government into four heads, as follows: (1) To express the approval of the Government of France of the additional protocol; (2) to express the approval of the Government of France of the request that the Netherlands Government act as intermediary in presenting the additional protocol to the powers signatory of the prize court convention; (3) to declare that it is not the intention of the Government of France to avail itself of the provisions of the additional protocol; and (4) to declare the intention of the Government of France to refer both the convention of London and the matter of the additional protocol to the Third International Peace Conference. The German minister stated that his instructions were to convey to the minister for foreign affairs of the Netherlands the approval of his Government verbally (*mündlich*). The British minister also stated that he could not communicate the approval of his Government otherwise than verbally, save upon receipt of special instructions to that effect. It was, therefore, decided that the three ministers would wait upon the minister for foreign affairs at 3 o'clock yesterday afternoon and express verbally their approval of the protocol and the suggested procedure.

This was done. The minister for foreign affairs thereupon replied to my note of the 23d ultimo, a copy of which was forwarded to the department in my No. 350, in the note of which I inclose copy and translation. I thereupon immediately presented him with the note of which I append a copy, making the formal request that the Government of the Netherlands, as intermediary of the Hague signatories, communicate the additional protocol in a circular note addressed to the powers signatory to the prize court convention. On consideration of this note, the minister for foreign affairs has verbally asked to be informed whether it is the opinion of the Government of the United States that the remarks of the French Government as to its intentions not to avail itself of the provisions of the additional protocol and to refer both the convention of London and the additional protocol later to the third peace conference may be embodied in the circular note to be addressed to the powers signatory of the prize court convention. To this I stated that I would not venture to reply without instructions from my Government, which instructions I should immediately request by cable. I have just done this.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Beaupré.

MINISTRY FOR FOREIGN AFFAIRS,
The Hague, May, 2, 1910.

SIR: In your letter of the 23d April last, No. 291, your excellency kindly sent me the project of a protocol, additional to the convention for the establishment of an international court of prize, designed to obviate the constitutional difficulties which prevent the ratification of the above-mentioned convention by the Government of the United States of America.

At the same time your excellency advised me of your intention to present a formal request to the end that the Government of the Queen be willing to communicate the text of this protocol to the powers signatory of the convention so soon as I should have informed your excellency that the Governments of Germany, Great Britain, and France have expressed their approbation of said text.

The representatives of the said powers having advised me that their respective Governments support the protocol in question, I hasten so to inform you.

I add that the Government of the French Republic has felt it necessary to remark, particularly, that it will not profit by the provisions of the additional protocol and that it proposes that both the convention of London and the additional protocol be submitted later to the third peace conference.

Kindly accept, etc.,

R. DE MAREES VAN SWINDEREN.

[Inclosure 2.]

Minister Beaupré to the Minister for Foreign Affairs.

AMERICAN LEGATION,
The Hague, May 2, 1910.

SIR: I have the honor to inform your excellency that difficulties of a constitutional nature have hitherto prevented the Government of the United States from proceeding with the ratification of the convention for the establishment of the international court of prize signed at The Hague October 18, 1907. As these difficulties are of a purely internal nature, it is not necessary either to discuss them or to dwell upon them at length. From the international standpoint, it is proper to state that they concern merely the procedure before the international court of prize, and that they do not prevent the acceptance of said court, provided the procedure before it be modified in such a way, as far as the United States is concerned, so as to prevent the examination upon appeal of a judgment of United States courts, and to limit the international court of prize to an award of damages in the case of an illegal capture by the naval forces of the United States. The acceptance of such a modification would affect neither the rights of the signatory powers, their subjects or citizens, nor the duty assumed by the United States to indemnify the signatory powers, their subjects or citizens, in a proper case.

The Government of the United States, sincerely desirous to participate in the labors of the court, has, after much thought and reflection, come to the conclusion that the difficulties in the way of its ratification of the convention are not insuperable, and that a formal modification of the convention in matters of procedure would remove the obstacles in the way of ratification without affecting matters of substance. The Department of State has communicated its views to the Governments of Germany, France, and Great Britain, and I am happy to inform your excellency that these Governments, joint proposers with the United States of the original convention at the Second Hague Peace Conference, agree that the proposed modifications of the convention are entirely consistent with its spirit and in no ways violative of the substantial rights and duties created by it.

I have, therefore, the honor to transmit to your excellency an additional protocol, prepared in consultation with representatives of the powers above mentioned, and with the express approval of the said powers, notified to your excellency by their diplomatic agents accredited to your excellency's Government, and I am directed by my Government to request that your excellency's Government, as the intermediary of the Hague signatories, and in accordance with the procedure established in the year 1900, in reference to a proposed modification of the convention for the adaptation to marine warfare of the principles of the Geneva Convention of August 22, 1864, transmit the proposed additional protocol in a circular note to be addressed to signatories of the prize court convention of October 18, 1907. Your excellency will note that the additional protocol is to be ratified at one and the same time with the original convention and that the protocol is to form an integral part thereof. It is suggested that the diplomatic agents of the signatories of the original convention, accredited to your excellency's Government at The Hague, be duly authorized to sign the additional protocol at The Hague on or before June 25, 1910, so that the ratifications of both instruments may be deposited at The Hague on June 30, 1910, and the declaration to make use of the modified procedure provided by the additional protocol may be noted in the procès-verbal of the deposit of ratifications, in accordance with articles 1 and 8 of said protocol and of article 52, second paragraph, of the original convention.

for the establishment of an international court of prize signed at The Hague October 18, 1907.

The Government of the United States believes that there can be no serious objection to the proposed additional protocol, especially as it meets with the express approval of the proposers of the original convention, and expresses the hope that your excellency's Government will transmit the said protocol, with the approval of your excellency's Government, to the signatories of the original convention with the least delay consistent with a matter of such magnitude and international importance.

I avail, etc.,

A. M. BEAUPRÉ.

Ambassador O'Brien to the Secretary of State.

No. 1160.]

AMERICAN EMBASSY,
Tokyo, May 10, 1910.

SIR: Referring to your unnumbered instruction of November 3, 1909, inclosing copies of an identic circular note relative to the proposed alternative procedure for the international prize court, I have the honor to inform you that I am to-day in receipt of a memorandum from the imperial foreign office, a copy of which I beg to inclose herewith. From this memorandum it will be seen that the Japanese Government agrees to the alternative procedure in the international prize court, but makes the suggestion that the establishment of the court of arbitral justice should be considered in a separate convention, apart from the question of the ratification of the prize court convention.

I have, etc.,

T. J. O'BRIEN.

[Inclosure.]

MEMORANDUM.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokyo, May 9, 1910.

The Imperial Government, desiring to cooperate with the other powers in giving full effect to the labors of the second peace conference, are happy to agree to the alternative procedure in the international prize court, suggested by the honorable the Secretary of State of the United States in his identic circular note of the 18th of October, 1909. It is, however, it seems to them, highly desirable that all the powers signatories of the prize court convention should in all that concerns the jurisdiction and procedure of the court be placed upon precisely the same footing. The Imperial Government accordingly recommend that the suggestion under consideration be modified so as to enable any of those powers, in their discretion and independently of any constitutional question, to make use of the proposed reservation.

The Imperial Government would prefer to have the proposed alteration in the prize court procedure effected by means of a separate act, rather than by the insertion of a clause in the instrument of a ratification of the prize court convention. But if the suggested method is deemed sufficient, the Imperial Government will waive their preference and accept the proposed protocol, provided it is amended in the sense they have recommended.

The Imperial Government also concur in principle in the proposition contained in the same note to invest the international prize court with the duties and functions of the proposed court of arbitral justice. But they are apprehensive that the plan suggested by the United States for giving effect to that proposition would leave several important questions, especially in the matter of organization and administration, entirely unprovided for. It is also greatly to be feared that the ratification of the prize court convention may be endangered if the proposed clause regarding the court of arbitral justice is inserted in that process.

In these circumstances the Imperial Government think it very desirable, if not actually essential, that the matter of the establishment of the court of arbitral justice should be considered in a separate convention, apart from the question of the ratification of the prize court convention.

Minister Beaupré to the Secretary of State.

No. 366.]

AMERICAN LEGATION,
The Hague, May 13, 1910.

SIR: I have the honor to refer to my cipher telegram of last evening, as well as to my No. 353, of the 3d instant, on the matter of the proposed protocol additional to the convention relative to the establishment of an international court of prize signed at The Hague October 18, 1907, and to report that on receipt of the department's cable of the 7th instant¹ I communicated verbally the department's attitude in regard to the remarks of the French Government, in respect of its approval of the additional protocol, to the minister for foreign affairs of the Netherlands. At the same time I informed him that I had learned from the French minister that his Government did not insist upon the inclusion of its remarks in the circular note which the Netherlands Government had been requested, by my note of the 2d instant, to forward to the powers signatory of the prize court convention. This appeared to satisfy the minister on that point and he informed me that the circular note was in course of preparation.

Yesterday morning, however, I received the note of which I inclose a copy and translation, dated the 10th instant, which states, in brief, that the Government of the Netherlands, while not admitting the analogy of the precedent of its action in 1900 in the matter of the modification of the convention for the adaptation of the Geneva convention of 1864 to war at sea, since this proposal had its origin with the Netherlands Government, is willing, if the Government of the United States thinks best, to become the intermediary in this present matter; but that the Government of the Netherlands believes it scarcely possible to set so early a date as the 25th of June next for signing the additional protocol, and, further, that the Netherlands Government will not be in a position to propose the ratification of the additional protocol before the 30th of June next, since it will not, itself, have been able to ratify the additional protocol by that date, and believes that such will be the case with a number of the other powers concerned. The note continues, therefore, by suggesting that the United States transmit their proposal to the signatory powers and that a date be set for the signature of the additional protocol after September 15 next, the date for the deposit of the ratifications being set at some subsequent time, not later than June 30, 1911. The note concludes by expressing the unqualified approval, on the part of the Netherlands Government, of the additional protocol.

That morning the minister for foreign affairs called at the legation on a personal matter, but, discussing incidentally the contents of his note of the 10th instant, made it clear that the Netherlands Government would be willing to act as intermediary in the matter of submitting the additional protocol to the powers signatory of the prize court convention as well as that his Government was perfectly willing to sign that instrument now, the difficulties existing being purely of a practical nature, as regards the time necessary for ratification.

I am, etc.,

A. M. BEAUPRÉ.

¹Not printed. Stated that department had no objection to inclusion of remarks of French Government in circular note.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Minister Beaupré.*MINISTRY FOR FOREIGN AFFAIRS,
The Hague, May 10, 1910.

MR. MINISTER: I have had the honor to receive your excellency's note of May 2 last, No. 298, in which you kindly send me the text of a proposed protocol additional to the convention relating to the establishment of an international prize court, destined to remove difficulties of a constitutional nature that oppose the ratification of said convention by the United States of America.

At the same time your excellency has kindly informed me of your Government's desire that the above-mentioned protocol should be transmitted by Her Majesty's Government to the powers signatory to the prize court convention, to be signed by them at The Hague on the 25th of June next, or at an earlier date, so that the deposit of ratifications may take place before the 30th of June following, simultaneously with the deposit of the ratifications of the prize court convention. This method of procedure, in the opinion of the Government of the United States, would be in conformance with the procedure followed in 1900 in regard to the adaptation of the principles of the Geneva convention of 1864 to war at sea.

Although the analogy that might exist between the two cases appears to be open to question, since the proposal of 1900 originated with the Queen's Government itself, and although, indeed, the Royal Government deems that it is much preferable and in no way objectionable that such proposals be made by that Government itself whence they emanate to the powers concerned, Her Majesty's Government would not raise any absolute objection to transmitting the proposals of the Government of the United States in regard to a modification of the convention relating to the prize court to the powers signatory to that convention. Nevertheless, Her Majesty's Government believes that it is scarcely possible to fix for the signature of the additional protocol a date so early as the 25th of June next, owing to the great number and the distance away of the powers having to pronounce upon it.

Besides, the Netherlands Government would not be able to propose the ratification of the protocol before the 30th of June, since it can not, itself, ratify the protocol without the prior consent of Parliament thereto, and since it is not possible to obtain this approbation before the above-mentioned date, and since it is to be expected that such will be the case with several of the other powers.

Under these circumstances, and if the Government of the United States insists that its proposal be transmitted by Her Majesty's Government, it would be better to propose for the signature of the additional protocol a date subsequent to the 15th of September next, and to postpone the deposit of the ratifications of this act, as well as of the convention relating to the prize court, to a date to be fixed subsequently, in any case not later than the 30th of June, 1911.

Nevertheless, Her Majesty's Government considers it preferable that the proposal in question be transmitted to the other powers by the Government of the United States, without the intervention of the Royal Government.

In conclusion I am pleased to add that the additional protocol, rendering it possible for the United States to ratify the convention relating to the international prize court, meets with the entire approbation of the Royal Government.

Accept, etc.,

R. DE MAREES VAN SWINDEREN.

The Secretary of State to Minister Beaupré.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 14, 1910.

Mr. Knox informs Mr. Beaupré that the United States requests the Government of the Netherlands to transmit the additional protocol, and that September 15 is satisfactory for its signature. Mr. Knox says that the United States prefers an early date for the deposit of ratifications, so that the prize court can go into operation during the coming year, and adds that while the department suggests January or February, it will defer to preferences of the Netherlands Government.

Minister Beaupré to the Secretary of State.

No. 370.]

AMERICAN LEGATION,
The Hague, May 16, 1910.

SIR: In reference to the Department's telegraphic instruction of the 14th instant, and to my No. 366, of the 13th instant, in regard to the circular note, to the powers signatory to the international prize court convention of October 18, 1907, which the department desires this Government to send, I have the honor to report that, upon receipt of the department's telegram, yesterday, I addressed to the minister for foreign affairs of the Netherlands the note of which I enclose copy, embodying the purport of your telegram.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.]

*Minister Beaupré to the Minister for Foreign Affairs.*AMERICA LEGATION,
The Hague, May 15, 1910.

SIR: I have the honor to acknowledge the receipt of your excellency's courteous note of the 10th instant, directions du protocole et politique No. 9197, in reply to my No. 298, of the 2d instant, in which your excellency has expressed the approval of the Netherlands Government of the proposed protocol additional to the convention relative to the establishment of an international court of prize signed at The Hague October 18, 1907. At the same time, your excellency states that the Queen's Government finds it preferable that this proposed protocol be submitted to the powers signatory of the prize court convention by the Government of the United States of America, without the intermediation of the Government of the Netherlands, although the latter Government has no objections, if the United States think best, to acting as intermediary. Your excellency also makes clear to me that it would scarcely be materially possible to set, as the date for the signing of the proposed protocol, a date so early as the 25th proximo, and suggests that, in view of the fact that the Netherlands Government itself would be unable to ratify the protocol before the 30th of June, the date tentatively mentioned in my note, a day after the 15th of next September be set for the signing of the protocol, and that the deposit of the ratifications, both of the protocol and of the convention relative to the establishment of an international court of prize, be postponed to a date to be fixed later; in any case, however, before June 30, 1911.

I have to advise your excellency that I at once communicated both the contents of this note and the purport of my conversation with your excellency of the 12th instant to my Government by telegraph. I am now instructed by my Government to modify my note of the 2d instant in the following particulars: The Government of the United States desires to reiterate its request that the Queen's Government transmit the proposed additional protocol, a copy of which was inclosed in my No. 298 of the 2d instant, to the signatories of the convention relative to the establishment of an international court of prize, together with an appropriate circular note addressed to the powers concerned. A date suggested by your excellency for the signature of the additional protocol, either the 15th of next September or a day near that date, would be entirely satisfactory to my Government. While my Government prefers an early date for the deposit of the ratifications, that the prize court may be enabled to go into operation during the coming year, and while my Government hopes that some day in January or, at latest, February of next year may be set for the deposit of the ratifications, I am instructed to defer wholly to the preferences of the Queen's Government in the matter of the date to be agreed upon for the deposit of the ratifications of the additional protocol and of the convention relative to the establishment of an international court of prize. I only venture to suggest to your excellency that it might serve a practical purpose to name, at least tentatively, in the circular note a date which may seem appropriate to your excellency for the deposit of the ratifications of the two instruments. In other respects my note of the 2d instant requires no modifications to meet the views of your excellency's Government.

With the hope that this arrangement of time may be pleasing to your excellency, and that the Government of the Queen may be willing to serve as intermediary in this matter, I avail, etc.,

A. M. BEAUPRÉ.

Chargé Wheeler to the Secretary of State.

No. 176.]

AMERICAN EMBASSY,
St. Petersburg, May 31, 1910.

SIR: With reference to the department's telegraphic instruction dated March 5, 1909, proposing alternative procedure for the international prize court and the investment of this tribunal with the functions of a court of arbitral justice, and to its unnumbered instruction of November 3, 1909, inclosing an identic circular note on the subject for transmission to the minister of foreign affairs, I have the honor herewith to transmit a note, received today from the foreign office, with translation in English.

I have, etc.,

POST WHEELER.

[Inclosure—Translation.]*The Minister for Foreign Affairs to Chargé Wheeler.*MINISTRY FOR FOREIGN AFFAIRS,
May 17-30, 1910.

MONSIEUR LE CHARGÉ D'AFFAIRES: In reply to the note of November 9, 1909, I have the honor to inform you that the minister imperial did not fail to submit to a thorough examination at the hands of a special commission the proposal of the Cabinet at Washington concerning the signing and ratification of The Hague convention of October 18, 1907, relative to the establishment of an international court of prize.

The American plan has been received with the strongest sympathy by the said ministerial commission, which fully recognizes the high practical value of the proposal of Mr. Secretary of State Knox as being able to facilitate the acceptance by all the powers of the above-mentioned convention concerning the establishment of an International Prize Court. However, considering the fact that the actual text of two additional protocols relating thereto, actually proposed by the American Government, should be first established by common consent by all the powers interested, and that on the other hand the project of the convention relative to the establishment of a court of arbitral justice—whose effective institution occupies so predominant a place in Mr. Knox's plans—has not even been signed at The Hague, and would require, furthermore, to be amplified and modified in conformity with the American proposals, the ministerial commission is of the opinion that it would be difficult, if not impossible, to decide these questions—so complex, so important, and at the same time interesting all the powers signatory to the conventions of The Hague—by means of ordinary diplomatic correspondence. They could, on the other hand, be handled effectively only by an international conference—inasmuch as these questions would require, perhaps, the revision, from the standpoint of form and even, should such be the case, of their content, of the two conventions of The Hague which are contemplated in the new proposal of the Government of the United States of America.

Accept, etc.,

ISWOLSKY.

Minister Beaupré to the Secretary of State.

No. 378.]

AMERICAN LEGATION,
The Hague, May 31, 1910.

SIR: With reference to previous correspondence, and particularly to the Department's telegraphic instruction of the 14th instant and to my cable of this afternoon, I have the honor to inclose herewith copy and translation of a note received to-day from the ministry for foreign affairs, advising me that the circular note to the powers

signatory to the convention for the establishment of an international court of prize signed at The Hague October 18, 1907, was sent out under date of the 24th instant, following my request of the 2d instant, reported in my despatch No. 353 of the day following. A copy of the circular note with its inclosures is appended to this communication and I am requested to forward them to my Government. I inclose the copy of the circular note herewith, accompanied by a translation thereof. I also transmit the printed copies of my note of the 2d instant and of the proposed additional protocol, which are inclosed in the circular note as sent out to the various powers concerned.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure 1.—Translation.]

Mr. Hannema (Secretary-General of the Foreign Office) to Minister Beaupré.

MINISTRY FOR FOREIGN AFFAIRS,
The Hague, May 30, 1910.

MR. MINISTER: In referring to the note of your excellency of the 15th of May last, No. 303, relating to the signature of a protocol additional to the convention relative to the international court of prize, I have the honor to hand to your excellency herewith a copy of the circular, with two inclosures, which I sent under date of the 24th instant, to the powers signatory to this convention, with the exception of the United States of America, as proposer of the modifications in question.

I avail myself of your excellency's usual kindness to request that your excellency will have the goodness to transmit these documents to the Government of the United States.

In requesting your excellency to accept my thanks in anticipation, I take this opportunity, etc.,

HANNEMA.

[Inclosure 2.—Translation.]

Circular note addressed by the Government of the Netherlands to the Signatory Powers.

MINISTRY FOR FOREIGN AFFAIRS,
The Hague, May 24, 1910.

Difficulties of a constitutional nature preventing the United States of America from ratifying, in its present form, the convention relative to the establishment of an international court of prize signed at The Hague on October 18, 1907, in the midst of the second peace conference, the Government of the United States has charged its representative at The Hague to invite the Government of the Queen to propose, to the powers signatory to this convention, to make certain modifications thereof, which may tend to remove the difficulties which prevent ratification by the United States.

These modifications, which refer the procedure before the international court of prize, are the object of an additional protocol, of which I have the honor herewith to inclose the text. A copy of the letter of the minister of the United States at The Hague, dated the 2d of May last, No. 298, is also inclosed.

The additional protocol, which has already received the approval of Germany, France, and Great Britain, and which has also the entire approval of the Government of the Queen, will, in case of approval by the other powers signatory to the convention relative to the prize court, be signed at The Hague by the representatives of the powers interested. The Government of Holland proposes the 15th of September next for this signature. The powers which may be unable to take part in this signature of the protocol will be permitted to adhere thereto. In such case those powers will give notice of their adherence to the Netherlands Government.

It is also to be noted that in accordance with the proposal of the United States the additional protocol shall be considered as forming an integral part of the convention relative to the prize court and shall be ratified at the same time as the latter. The date for the deposit of the ratifications will be decided later. The Government of the Queen trusts that the deposit will take place during the month of February, 1911.

Kindly bring the foregoing to the attention of (the Government) (the Governments), at the same time transmitting (it) (them) a copy of the above-mentioned documents, requesting (it) (them) to declare, as soon as may be, the action to be taken upon the proposals mentioned in this note.

I beg you also to acknowledge the receipt of this note.

R. DE MAREES VAN SWINDEREN.

[Inclosure 3.—Translation.]

Additional protocol to the convention relative to the establishment of an International Court of Prize.

Germany, the United States of America, the Argentine Republic, Austria-Hungary, etc., powers signatory to The Hague convention dated October 18, 1907, for the establishment of an international court of prize, considering that for some of these powers difficulties of a constitutional nature prevent the acceptance of the said convention, in its present form, have deemed it expedient to agree upon an additional protocol taking into account these difficulties without jeopardizing any legitimate interest and have, to that end, appointed as their plenipotentiaries, to wit:

* * * * *

Who, after depositing their full powers, found to be in good and due form, have agreed upon the following:

ARTICLE 1. The powers signatory or adhering to The Hague convention of October 18, 1907, relative to establishment of an international court of prize, which are prevented by difficulties of a constitutional nature from accepting the said convention in its present form, have the right to declare in the instrument of ratification or adherence that in prize cases, whereof their national courts have jurisdiction, recourse to the international court of prize can only be exercised against them in the form of an action in damages for the injury caused by the capture.

ART. 2. In the case of recourse to the international court of prize, in the form of an action for damages, article 8 of the convention is not applicable; it is not for the court to pass upon the validity or the nullity of the capture, nor to reverse or affirm the decision of the national tribunals.

If the capture is considered illegal, the court determines the amount of damages to be allowed, if any, to the claimants.

ART. 3. The conditions to which recourse to the international court of prize is subject by the convention are applicable to the action in damages.

ART. 4. Under reserve of the provisions hereinafter stated the rules of procedure established by the convention for recourse to the international court of prize shall be observed in the action in damages.

ART. 5. In derogation of article 28, paragraph 1, of the convention, the suit for damages can only be brought before the international court of prize by means of a written declaration addressed to the International Bureau of the Permanent Court of Arbitration; the case may even be brought before the bureau by telegram.

ART. 6. In derogation of article 29 of the convention the international bureaux shall notify directly, and if possible by telegram, the Government of the belligerent captor of the declaration of action brought before it.

The Government of the belligerent captor, without considering whether the prescribed periods of time have been observed, shall, within seven days of the receipt of the notification, transmit to the international bureau the case, appending thereto a certified copy of the decision, if any, rendered by the national tribunal.

ART. 7. In derogation of article 45, paragraph 2, of the convention the court rendering its decision and notifying it to the parties to the suit shall send directly to the Government of the belligerent captor the record of the case submitted to it, appending thereto a copy of the various intervening decisions as well as a copy of the minutes of the preliminary proceedings.

ART. 8. The present additional protocol shall be considered as forming an integral part of and shall be ratified at the same time as the convention.

If the declaration provided for in article 1 hereinabove is made in the instrument of the ratification, a certified copy thereof shall be inserted in the procès verbal of the deposit of ratifications referred to in article 52, paragraph 3, of the convention.

ART. 9. Adherence to the convention is subordinated to adherence to the present additional protocol.

The Acting Secretary of State to Ambassador O'Brien.

No. 444.]

DEPARTMENT OF STATE,
Washington, July 6, 1910.

SIR: Referring to your dispatch No. 1160, of May 10, 1910, transmitting copy of a memorandum dated May 9, from the Japanese foreign office, relative to the proposed alternative procedure for the international prize court, I have to inclose herewith draft of a memorandum on the same subject which you are instructed to present to the Government of Japan.

I am, sir,

HUNTINGTON WILSON.

[Inclosure.]

Memorandum reply of Department of State.

The Government of the United States notes with great satisfaction that the views of the Imperial Japanese Government relative to the proposed alternative procedure for the international prize court expressed in its memorandum of May 9, 1910, are in such general accord with the propositions of the identic circular note of the Department of State of October 18, 1909.

The Government of the United States recognizes most fully the value of the suggestions upon the subject made by the Imperial Japanese Government, and it believes that these suggestions will be found to have been met by the provisions of the additional protocol which is being brought to the attention of the various powers signatory to the convention for the establishment of the international court of prize by the circular note of the Government of the Netherlands of May 24.

In view of the assent of the Imperial Japanese Government to the principle of the alternative procedure suggested by the identic note of the Government of the United States of October 18, 1909, and what is believed to be the complete compliance of the additional protocol with the suggestions of the Imperial Japanese Government, the Government of the United States entertains the liveliest hope that the additional protocol will meet with the approval of the Imperial Japanese Government.

Minister Beaupré to the Secretary of State.

No. 399.]

AMERICAN LEGATION,
The Hague, July 14, 1910.

SIR: Referring to my No. 378, of May 21 last, in regard to the circular note sent by the Netherlands Government to the powers signatory to the convention for the establishment of an international court of prize, proposing a protocol additional thereto, I have the honor to report that, with a view of obtaining any information possible concerning the progress of the negotiations looking to the adoption of this protocol, I called upon the minister for foreign affairs this afternoon and approached the subject. In response to my inquiry the minister said that up to the present time the information which had been furnished him in regard to the reception of the proposed additional protocol was of the most satisfactory and favorable nature; that nothing in any way unfavorable to the proposal had come to him from any source, and that he was thoroughly of opinion that no serious difficulties in the way of the adoption of the proposed protocol would arise. He added that should anything occur which it might seem important for me to know he would

inform me thereof at once; and that in a short time he would furnish me with more definite particulars in respect to the information which he had been able to obtain as to the reception of the proposal in question.

I am, etc.,

A. M. BEAUPRÉ.

Ambassador O'Brien to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Tokyo, August 19, 1910.

See memorandum with my 1160, May 10 last. Japanese Government unable to reconcile additional protocol with their recommendation. Do you understand that under it and independently of constitutional difficulties Japan has the right to limit recourse against her in international court to action for damages? Right of reservation seems not to be general.

O'BRIEN.

The Acting Secretary of State to Ambassador O'Brien.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1910.

Your August 19, 1 p. m. As indicated in department's memorandum forwarded to you July 6 department hoped that Japanese suggestions of May 10, which were based upon American propositions set forth in identic circular note of November last, would be fully met by draft additional protocol which was submitted to the Japanese Government by the Netherlands Government on May 24 last or two weeks after the delivery to you of the Japanese memorandum. It will be observed that proposed additional protocol does not differ in sense from the *vœu* recommended by the delegates of Japan and other powers assembled at the London Maritime Conference, it being then understood that the *vœu* was satisfactory to Japan. Proposed protocol applies in terms to all powers laboring under constitutional difficulties similar to those existing in the United States. France, while approving proposed protocol, announces she does not intend to take advantage of it. Should the contemplated constitutional difficulties exist in Japan, obviously that Government may take advantage of provision of protocol as now drafted. However, this Government would deprecate proposal to alter present protocol because it believes that discussion of any proposed modification would almost of necessity delay ratification of prize court convention as amended by proposed protocol. Therefore, this Government is sincerely of the hope that the Government of Japan will be able to approve amended protocol as now proposed.

HUNTINGTON WILSON.

The Secretary of State to Chargé Garrett.¹

DEPARTMENT OF STATE,
Washington, October 26, 1910.

SIR: On October 18, 1909, the Secretary of State transmitted an identic circular note to the powers participating in the London Naval Conference proposing that the prize court convention be modified in such a way as to remove the constitutional objection to it on the part of the United States. Briefly stated, the objection to the convention in its actual form consisted in the fact that an appeal might be taken from a decision of the Supreme Court of the United States, and that the judgment of the Supreme Court might be modified or reversed on appeal. The department was willing to submit the question involved in the judicial determination to the examination of the international prize court and to give effect to its findings provided the findings were in the form of an award of damages leaving untouched or unaffected the validity of the judgment within the jurisdiction of the United States. The proposal of the United States was that the proceeding before the prize court should be *de novo*, and that the question involved in the controversy should be tried and determined both as to the law and the fact without reference to the national judgment.

As a result of negotiations, particularly with the original proposers of the prize court convention, it was determined to draw up an additional protocol to be signed by the signatories of the original convention, to be ratified by them, and the ratifications of the additional protocol and the original convention to be deposited at one and the same time at The Hague. The additional protocol was to form an integral part of the original convention and the convention was to be modified in accordance with the provisions of the additional protocol. As modified, the department believed that this Government could accept the prize court and participate in its beneficent operations.

On May 24, 1910, the Netherlands minister of foreign affairs transmitted the additional protocol to the signatories of the original convention with the request that their diplomatic representatives accredited to The Hague should be instructed to sign the protocol during the month of September, and on September 19, 1910, the protocol was signed by the United States, Germany, Argentine, Austria-Hungary, Denmark, Spain, France, Great Britain, Japan, Norway, Netherlands, and Sweden, and the Netherlands minister of foreign affairs stated that Bulgaria, Ecuador, and Salvador had expressed their intention to adhere thereto. The Dutch minister of foreign affairs also stated that he had received no intimation of any objection to the additional protocol and he believed that it would be approved by the various signatories of the original convention during the course of the year.

The department, however, is unwilling to transmit the additional protocol to the Senate or to request the approval of the original convention unless informed that all the signatories of the original convention have either approved the protocol or have expressed

¹ Sent, *mutatis mutandis*, also to the following embassies and legations: Embassies: Mexico, Turkey. Legations: Belgium, Bolivia, Chile, Colombia, Cuba, Ecuador, Guatemala, Haiti, Panama, Paraguay, Persia, Peru, Portugal, Salvador, Siam, Switzerland, Uruguay.

their intention to do so in the very near future, as the ratification of the protocol and the original convention, as well as the declaration of London which supplements the original prize court convention, would fail of their purpose unless the protocol were ratified by the signatories to the original convention. The department is, however, exceedingly anxious to cooperate in the establishment and operation of the international court of prize, but feels that it must be assured of the acceptance of its proposed modification as set forth in the additional protocol before it can take any steps toward securing the approval of the instruments by the Senate.

You are, therefore, instructed to lay these views before the Government to which you are accredited and to state the great and abiding interest which the United States takes in the establishment of the prize court and the peculiar importance which it attaches to the acceptance of the additional protocol which will render the cooperation of the United States possible. The department will inform the Governments of Germany, France, and Great Britain of the contents of this instruction, and before taking the matter up with the Government to which you are accredited you will confer with the diplomatic representatives of Germany, France, and Great Britain in order to ascertain their own views and to have them make a concurrent, although not joint, representation of the importance of early favorable action upon the additional protocol.

I transmit for your information a copy of the identic circular note of the Dutch minister of foreign affairs, dated May 24, 1910, and a copy of the draft of the additional protocol as thereby transmitted by the Netherlands Government to the signatory governments of the international prize court convention of The Hague.

I am, etc.,

P. C. KNOX.

The Secretary of State to Ambassador Reid.¹

No. 1409.]

DEPARTMENT OF STATE,
Washington, October 26, 1910.

SIR: You have been officially informed that an agreement of the original proposers of the international prize court was reached at Paris in March of the current year to modify the provisions of the original convention for the prize court in such a way as to render the cooperation of the United States possible, and that the agreement of the four powers has since been transmitted in the form of an additional protocol by the Dutch Government to the various signatories of the prize court convention. On September 19, 1910, the additional protocol was signed by representatives of the four proposers of the original convention (the United States, Great Britain, France, and Germany), and in addition to these by representatives of the Argentine Republic, Austria-Hungary, Denmark, Spain, Japan, Norway, the Netherlands, and Sweden. Furthermore, at the time of the signing of the protocol the Dutch minister for foreign affairs stated that Bulgaria, Ecuador, and San Salvador had expressed their intention to adhere thereto.

¹ Same, *mutatis mutandis*, to the American embassies at Paris and Berlin.

As the original convention for the establishment of an international prize court was adopted by thirty-four countries represented at the Second Hague Conference and is therefore a joint agreement of those thirty-four countries, it is necessary that the instrument modifying it be ratified by each of the signatories in order that it may bind each signatory to the original convention and modify the original document in the manner desired by the United States.

This Government is very desirous to cooperate in the establishment of the prize court and to participate in its operation, but in order to meet constitutional objections the original convention should be modified as proposed by the additional protocol. As this Government is not in a position to accept the prize court in its original form, and as the ratification of the additional protocol without its acceptance by the other powers to the original convention would be useless, the department does not feel that it can request the Senate to approve the original convention, submit the protocol to the Senate, or take any official steps in the matter until it is assured that the additional protocol modifying the original convention has been accepted by the signatories of the prize court, or that the acceptance of the additional protocol is so reasonably certain as to preclude any doubt as to its approval by all the parties to the original convention.

I desire to submit the original convention, the declaration of London supplementing it, and the additional protocol modifying it to the Senate at its approaching session, in order that the three instruments may be ratified at the earliest possible moment, but I am unwilling to take any action in the premises until assured of the acceptance of the protocol upon which the fate of the instruments depends as far as the United States is concerned.

A circular instruction,¹ a copy of which is inclosed for your information, has been sent to American diplomatic officers accredited to the various States which signed the original convention of October 18, 1907, and which have not signed the additional protocol, directing them to request that early and favorable consideration be given to the protocol by those Governments which had not as yet ratified it or expressed an intention to ratify in the immediate future. It is highly desirable that the proposers of the original convention should act in harmony and that they should use their influence concurrently, if not jointly, with the various Governments which have not heretofore signed the additional protocol. It is obvious that a request for its early acceptance made by each of the original proposers would facilitate matters and that the manifestation of a common interest in the prize court and a desire to see it established at the earliest moment through the acceptance of the additional protocol would count for much. In the informal negotiation of the protocol the representatives of the proposers suggested concurrent or joint action in order to secure its prompt acceptance. The department, therefore, feels that the time has come to lay the matter before the Government to which you are accredited and to request its assistance in the matter of the protocol.

In discussing the subject with the secreatry of state for foreign affairs you should state that the department has already instructed

¹ *Supra*.

its diplomatic officers to request an early and favorable consideration of the protocol, that this Government would much appreciate the cooperation of each of the original proposers, and therefore asks that appropriate instructions be given by the Governments of Germany, France, and Great Britain to its diplomatic officers in support of the initiative already taken by the United States. In your interview with the secretary of state for foreign affairs you will assure him of the deep interest that the United States takes in the prompt establishment of the prize court, and that this proposed action is based upon the belief that the cooperation of the original proposers will be able to secure the establishment of this much-needed and long-delayed international institution. You may lay stress upon the fact that the department considers the acceptance of the declaration of London as well as the additional protocol as essential to the establishment and the successful working of the tribunal. You will also call attention to the fact, as a means to secure prompt and hearty cooperation, that the proposers of the original convention can not well expect the nations to accept the convention and put it into effect if the sponsors do not agree upon the form which it should take.

I am, etc.,

P. C. KNOX.

The Secretary of State to Chargé Schwylar.

No. 466.]

DEPARTMENT OF STATE,
Washington, October 26, 1910.

SIR: The department learned with sincere pleasure, by Mr. O'Brien's telegram of the 9th ultimo¹ and his dispatch No. 1221,¹ of the same day's date, that the Japanese Government had instructed its representative at The Hague to sign the additional protocol of the international prize court convention without reservation of any kind.

In regard to the Japanese memorandum dated May 9, 1910,² transmitted by Mr. O'Brien in his dispatch No. 1160 of May 10, 1910,¹ and referred to by the Japanese note dated July 29, 1910,¹ inclosed in his No. 1221 under acknowledgment, the department feels that the language of the protocol is sufficiently broad to meet the desires of the Japanese Government, because the existence of constitutional difficulties is a matter of internal relations into which international law does not ordinarily inquire, and the official statement that such difficulties exist and that the Government desires to avail itself of the alternative procedure contained in the additional protocol would be final and binding.

In the next place, the expression of constitutional difficulties is very broad and relates not merely to provisions of a constitution, but also to the internal organization, whether it depends upon a constitution or the laws or practice of a country. From this point of view constitutional convenience or inconvenience would be determinative, and a preference for the alternative procedure proposed by the additional protocol and based upon convenience or inconvenience would be a sufficient justification of the determination of the Government in

¹ Not printed.

²Supra.

favor of the alternative procedure stipulated for in the protocol. In any event, the question is one for the decision of the Government wishing to avail itself of the alternative procedure. This view of the matter is understood to be the view of the Netherlands Government, and the department understands that that Government, as transmitter of the additional protocol, will make a formal statement to this effect.

You will present these views to the Japanese Government and inform the minister of foreign affairs that the department appreciates the motives of the Japanese Government, shares in them, and believes that the purpose of the Japanese memorandum dated May 9, 1910, will be realized in practice without the necessity of formal amendment or interpretation of the protocol.

You will take an early opportunity to express to the Japanese Government the department's high appreciation of its acceptance in principle of the proposition of the United States as laid down in the identic circular note of October 18, 1909, to invest the prize court with the functions and jurisdiction of the court of arbitral justice. In doing so the Japanese Government states that it believes it advisable to proceed to the establishment of the prize court and to delay any action regarding the establishment of the court of arbitral justice until such time as the prize court has been established. The Department of State concurs in this view and will defer international consideration of the project to establish the court of arbitral justice until the prize court is instituted, so as not in any way to jeopardize the establishment of the latter institution.

I am, etc.,

(For Mr. Knox.)

ALVEY A. ADEE.

The Acting Secretary of State to Chargé Hibben.

DEPARTMENT OF STATE,
Washington, November 10, 1910.

SIR: I inclose herewith for the legation's information a copy of an identic instruction sent to the American diplomatic officers accredited to the Governments signatory of The Hague International Prize Court Convention who did not sign the additional protocol thereto at The Hague on September 19 last, or who did not at that time express their intention to adhere to the protocol.

I am, etc.,

ALVEY A. ADEE.

The Secretary of State to Chargé Benson.¹

DEPARTMENT OF STATE,
Washington, December 17, 1910.

SIR: In view of the fact that the Government of the Netherlands has no diplomatic representative at La Paz, and also in view of a suggestion made by the Netherlands minister for foreign affairs to the American Legation at The Hague, you are instructed to act as the agent of the Government of the Netherlands to present officially

¹ Same, *mutatis mutandis*, to the following legations: Colombia, Cuba, Ecuador, Guatemala, Haiti, Peru, Salvador.

to the Government of Bolivia the additional protocol ¹ (signed September 19, 1910) to the convention providing for the creation of an international prize court, and urge the early ratification by the Government of Bolivia both of the additional protocol and of the original prize-court convention.

A copy of the draft of the additional protocol in the French language is forwarded herewith in order that you may carry out this instruction.

The authenticated copies of the additional protocol have not yet been furnished by the Government of the Netherlands.

I am, etc.,

P. C. KNOX.

The Secretary of State to Chargé Hibben.

No. 174.]

DEPARTMENT OF STATE,
Washington, December 17, 1910.

SIR: In reply to your No. 446 ² of November 21 last, the department desires you to inform the Netherlands minister of foreign affairs that this department will, as requested by him, use its good offices with the Governments of the Latin-American countries which signed the international prize-court convention and in which the Government of the Netherlands has no diplomatic representatives, with a view to obtaining the early ratification of the additional protocol as well as of the international prize-court convention.

Instructions have been sent to our diplomatic representatives accredited to those Governments for the purpose above mentioned.

I am, etc.,

P. C. KNOX.

¹ See p. 631.

² Supra.

GREECE.

MARRIAGE OF AMERICAN WOMEN TO SUBJECTS OF GREECE.

File No. 13996/1.

Minister Moses to the Secretary of State.

No. 72.]

AMERICAN LEGATION,
Athens, January 27, 1910.

SIR: I have the honor to report that Mr. Horton, consul general at Athens, has called to my attention the case of Mrs. ———, of ———, a native American, married to a Greek, who now, as she writes to Mr. Horton, has deserted her and returned to his native country, where, as she suspects, he purposes to take another wife.

Both Mr. Horton's inquiries and my own have been fruitless to locate the man; and even had we been successful in this no substantial relief could have been found for Mrs. ———. The Greek Church is established by the constitution, and it and the Greek Nation are practically coeval. Marriage is, therefore, by Greek law, a sacrament and not a civil contract, and has no validity unless the ceremony is performed by an orthodox priest. Accordingly, a Greek who marries in a foreign jurisdiction is at perfect freedom to regard his marriage bonds annulled upon returning to Greek jurisdiction; and Mr. Horton tells me that several cases of this character have occurred during his residence here.

There seems to be no remedy. The British minister here tells me that his countrywomen have encountered this difficulty, and that he found himself powerless to help them. He added that a similar condition formerly existed in respect of Anglo-French marriages contracted in Great Britain, and that a special convention was necessary to remedy it. Such recourse can not be had here by reason of the peculiar ecclesiastical situation, but I have the honor to suggest that the publication in America by the department of the conditions outlined above might serve as some measure of protection to American women who contemplate matrimony with Greek subjects.

I have, etc.,

GEORGE H. MOSES.

TRIAL IN GREECE OF GREEK SUBJECTS FOR EXTRADITABLE CRIMES COMMITTED IN THE UNITED STATES.

The Secretary of State to Minister Moses.

No. 32.]

DEPARTMENT OF STATE,
Washington, May 20, 1910.

SIR: I inclose herewith a copy of a circular ¹ issued by the police department of McKeesport, Pa., requesting the arrest of Charlie Sotirakos, who is wanted at that place on a charge of murder.

¹ Not printed.

You will transmit this circular to the Greek foreign office for its information, and add that the accused is reported by the police authorities of Allegheny County, Pa., to be now under arrest and in jail at Athens, Greece, on a charge of strangling a woman in Piraeus.

You will report to the department the status or result of the trial of the fugitive for this crime committed in Piraeus; also whether it would be possible to have the fugitive tried in Greece for the crime committed in the United States.

I am,

(For Mr. Knox.) HUNTINGTON WILSON.

Minister Moses to the Secretary of State.

[Extract.]

No. 161, Greek series.]

AMERICAN LEGATION,
Athens, July 25, 1910.

SIR: I have the honor to confirm my telegram of the 23d instant,¹ relating to Charlie (alias Kyriakoulis), Sotirakos, who is wanted by the police of McKeesport, Pa., for the murder of his wife at that place August 6, 1909.

By a note from the foreign office I am informed that Sotirakos is now in jail at Athens awaiting indictment.

Referring to your instruction No. 32 of May 20, ultimo, inquiring whether Sotirakos can be tried in Greece for the crime committed in the United States, I have the honor to report that, since Greek law does not recognize naturalization without the consent of the King, Sotirakos, regardless of his status in America, is regarded as a Greek subject and may be brought to trial here for crimes committed anywhere.

I have, etc.,

GEORGE H. MOSES.

File No. 268.11 Sa 8/6.

Chargé de Billier to the Secretary of State.

No. 205, Greek series.]

AMERICAN LEGATION,
Athens, December 29, 1910.

SIR: Referring to the department's instruction No. 32 relating to the case of Charlie Sotirakos, I have the honor to report that the legation has received from the lawyer employed to watch the trial of Sotirakos at Lamia, a report stating that Sotirakos was convicted of murder in the second degree for the murder committed in Piraeus, and sentenced to 15½ years' imprisonment. The prosecuting attorney informed the jury that investigation is taking place of the crime committed by Sotirakos in McKeesport, Pa., and that before long he would be tried for the same by the Greek criminal court.

I have, etc.,

FREDERIC DE BILLIER.

¹ Not printed.

GUATEMALA.

MESSAGE OF THE PRESIDENT OF GUATEMALA TO THE GUATEMALAN CONGRESS.

File No. 5316/157.

Minister Sands to the Secretary of State.

No. 101.]

AMERICAN LEGATION,
Guatemala, April 14, 1910.

SIR: I have the honor to inclose copy and translation of the message of the President of Guatemala to the National Assembly.

I have, etc.,

W. F. SANDS.

[Inclosure—Translation.]

Message of the President of Guatemala.

More than half a million pesos were spent in bettering sanitary conditions by the board of health, the various departments of which gave complete satisfaction. There has not been a case of contagious disease on our coasts and no quarantine has been established against our ports. During this year more than a million persons have been vaccinated or revaccinated in the country, and this sanitary measure is being followed with such activity that in a few months we may be able to say that Guatemala is at the head of the countries whose people are immune from smallpox, as it already occupies a distinguished place in sanitary matters.

As per report of the minister of finance, the public revenue for the year 1909 gave a total of \$49,239,722.93, giving a surplus of \$18,739,722.93 over the sum estimated by the National Assembly, which was for \$30,500,000.

The expenses of the administration amounted to \$38,412,807.54, besides \$32,141,-453.70 expended by the department of finance, which makes a total for the year 1909 of \$70,554,261.24. This increase is due entirely to the fluctuations of exchange.

I hope that through the peace and tranquillity enjoyed by the country, and as a result of the laudable efforts to better as far as possible the financial condition of the country, I may very soon report to the honorable assembly some arrangement or loan that may fill the aspirations of the Guatemalan people and of their Government, a matter which is as delicate as it is important.

It has been my constant purpose and sincere endeavor to surround with every kind of guaranty and facility the investment of foreign capital in our country, whether it be in commerce, agriculture, or industry, thus favoring the immigration not only of persons but of capital, in order to bring about the economical evolution initiated and which will completely change conditions in our country. I have always desired that my administration be considered as one of hard work, and morally and practically I have lent my energy to progress in that respect, developing public education and giving it powerful stimulus, so that its influence be decisive. In the other branches of national progress I have endeavored that this progress should be as great as the circumstances and the elements in our power permitted.

Activity can find, in this country, an unlimited field. Thousands of miles of new highways and roads have been constructed connecting towns to agricultural centers. The interoceanic railway is open to the commerce of the world, and the plans are complete for the building of railways to the frontiers of Mexico and El Salvador, and also the line which will reach Quezaltenango and from there be extended to the other northern Departments. These facilities have brought more traffic and titles have been issued for more than 30,000 "caballerias" of lands of the public domain all over the Republic, this with the object of making a large distribution of lands which will make farms, thus increasing the number of small property holders, which means an increase of wealth, both public and private, and will help to develop the important branch of agriculture.

The Republic of Guatemala has commenced to be visited by numerous American and European travelers attracted by the facilities offered by our new interoceanic railway and by the different lines of steamers touching at our ports. Most of them are tourists who come to admire the natural beauty of our country, and the day is not very far away when this delightful climate will bring here many tourists escaping from the severe cold or heat of our neighboring northern countries. The number who came seeking business opportunities is also considerable, for in consequence of a fertile soil and the guaranties offered by civilized institutions they wish to develop new industries and invest capital profitably.

Our country offers an unlimited field to progress, and it is expected that following the path she has cut out for herself, dedicating all efforts to labor, which is the best guaranties for peace, she will advance with sure and firm steps to the conquest of a beautiful future, replete with ever-growing prosperity and aggrandizement as a reward to her efforts.

GUATEMALA, *March 1, 1910.*

MANUEL ESTRADA C.

HAITI.

MESSAGE OF THE PRESIDENT OF HAITI TO THE HAITIAN CONGRESS.

File No. 838.032/2.

Minister Furniss to the Secretary of State.

No. 721.]

AMERICAN LEGATION,
Port au Prince, September 6, 1910.

SIR: I have the honor to transmit herewith copy and translation of the message of President Simon read at the opening of the extra session of the Haitian Congress on the 5th instant.

I have, etc.,

H. W. FURNISS.

[Inclosure—Translation.]

NATIONAL ASSEMBLY—SESSION OF SEPTEMBER 5, 1910.

Seated on the executive bench were Messrs. Murat Claude, Petion Pierre Andre, and Gens. Jeremie and Septimus Marius.

Mr. F. P. Paulin, the president of the senate, presided over the assembly and in the name of the Republic declared the opening of the extra session.

The secretary of interior took the floor.

"Honorable senators, honorable deputies," said he, "the constitution gives to the chief of state the right to convoke you in an extra session. It makes it also his duty to render an account, through a message, of the necessity under which he finds himself for calling you together; therefore I beg you to give attention to the reading of the message that I am about to make."

Message—François Antoine Simon, President of the Republic.

MESSRS. SENATORS, MESSRS. DEPUTIES: At the beginning of my elevation to the First Magistracy of the Republic I applied myself especially toward seeking the quickest and most reasonable solution of the important financial question which has not up to the present hour ceased to absorb the thoughts of all patriots who are interested in the welfare of the Haitian nation.

Often in my addresses, as well as in my audiences, it has given me pleasure to renew the pledge which I voluntarily took before the nation to endow it with a money of good standard and discontinue the pernicious paper-money system. There has existed for a long time between the Government and the National Bank of Haiti a difference which, threatening to last forever, rendered ineffective all the efforts attempted with a view of ameliorating our financial situation. I thought that the sending of a commission to Paris might put an end to this state of affairs, which had become intolerable, and arrange at the same time the basis of a new financial scheme. In the execution of this scheme I met very great difficulties, but my firm faith and a better future has permitted me to overcome them. The financial mission, after having negotiated for the retirement of the national bank, has returned with three proposals of contracts which the council of secretaries of state has adopted after having made the necessary amendments, viz:

1. An agreement for the canceling of the contract of the national bank of 1880.

2. A contract for the establishment of a new State bank under the title of "National Bank of the Republic of Haiti," negotiated between the Government and the bank "l'Union Parisienne," in the name of a group of capitalists mentioned in the said contract.

3. A contract for a loan between the Government and the same group. The proceeds of the loan are to serve for the following transactions:

(a) The entire withdrawal of our paper money within a maximum delay of two years and also of the nickel in a proportion that shall be deemed necessary.

(b) Redemption of the interior debt including the 6 per cent and 3 per cent consolidated loans, 6 per cent united loans, 2½ per cent loans (blue and rose titles), and the payment of the balance of the loan of August 20, 1909.

(c) Some urgent expenses of the public treasury.

During the session that has just closed, I proclaim it loudly, gentlemen, you have given your entire patriotism to help me to realize the greatest amount of good possible for the benefit of the Haitian nation.

The Executive on his part has neglected nothing for the purpose of presenting to you during the session all the proposals that were worthy of the attention of the representatives of the nation. But, on account of circumstances the examination of the financial reform proposals taking place only at the last hour, the secretary of state for finance did not have the time to submit them to you during the course of the ordinary session. That is why, Messrs. Senators and Deputies, I have taken the resolution to convene you in an extra session, convinced that you will take great pleasure in consecrating a few days more labor toward the work of national regeneration that we have inaugurated together during nearly two years. Since that period, gentlemen, what trouble have we not given ourselves, what anxieties have we not had, each one in his sphere of action, pursuing the solution of the same problems, to finally reach the same end.

The execution of this financial program is the realization of our common dreams. It is the consolidation of the public mind which was so difficult to lay hold of, in its complexity too changing to make of it an everlasting reality.

These new financial combinations are but the basis of a complete plan of government which I have never ceased to propagate and which can be summarized in a few words: The regeneration of the Republic by labor and the stability in its industrial relations with friendly powers.

Notwithstanding your good will, gentlemen, you have not been able to examine all the business submitted for your deliberation during the last session. The general administration of the country at the present hour beseeching more than ever the attention of the great public powers, I will recommend to your wisdom the solution of some questions of public utility, the urgency of which has been recognized and which have already been voted by the house of deputies.

With the hope that the result of your coming deliberations will strengthen still more the bonds already existing between the two great powers, I renew to you, Messrs. Senators, Messrs. Deputies, the expression of my highest consideration.

A. T. SIMON.

The PRESIDENT: Mr. Secretary of State, the National Assembly gives you an official acknowledgment of the deposit of this document.

The session is closed.

HONDURAS.

MESSAGE OF THE PRESIDENT OF HONDURAS TO THE HONDURANEAN CONGRESS.

File No. 7357/703.

Chargé Brown to the Secretary of State.

[Extract.]

No. 200.]

AMERICAN LEGATION,
Tegucigalpa, January 4, 1910.

SIR: I have the honor to transmit herewith two copies of the annual message addressed by President Davila to the National Congress which assembled on the 1st instant.

The most interesting passage, perhaps, is that referring to the question of the Central American Union. I append hereto a copy of this portion of the message, together with a translation.

I have, etc.,

PHILIP BROWN.

[Inclosure—Translation.]

Message of the President of Honduras.

A matter of vital interest which actually is being agitated in the whole of Central America is the much to be desired national union, an idea which received a powerful impulse from the treaties of Washington, creators of the court of justice at Cartago and of the International Central American Bureau, institutions which in every sense stimulate and nourish this idea.

The neutrality declared by Honduras and recognized by the nations which subscribed to these treaties, a neutrality exacted by the circumstances in which exist the political relations of the Governments of Guatemala, Salvador, and Nicaragua, places our Government in the position of not being able to take the initiative in that grand idea; but this does not hinder it from adhering to the same, once it shall be brought about by the other States, since I am firmly convinced that while these countries remain under present conditions peace will be ephemeral, a peace which exhausts our resources and which discredits us before civilized nations.

I am not unaware that the States of Central America are not yet prepared to unite politically; but Honduras, because of its geographical position, being the country of the Isthmus most exposed to civil wars and seeing continually appear on its frontiers the specter of invasions, emboldened by the state of division in which we live, would, I think, be most benefited by the national union. Only in this way will cease the civil wars which have engendered the spirit of faction and personal ambition characterizing our distinct parties and which have produced no other result than anarchy in politics and society.

EXTRADITION OF CHARLES VANDENBERG FROM HONDURAS TO THE UNITED STATES GRANTED AS AN ACT OF COMITY.

File No. 25420/2.

The Acting Secretary of State to Minister McCreery.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 13, 1910.

Mr. Adey says the department is advised by the governor of New York that Charles N. Vandenberg, traveling under the name of Carl Nicklas or other alias, convicted of forgery in New York, is a

passenger on the Norwegian steamer *Agnella*, sailing from New Orleans July 7, due at Puerto Cortes on the 13th. The fugitive, he says, is a physician, but contemplates entering the planting or mining business, and adds description.

Mr. Adee instructs Mr. Sands to say to the minister for foreign affairs that in view of the extradition treaty now pending with Honduras, which the department expects and hopes soon will be in force, the Government of the United States would greatly appreciate it if the Government of Honduras would find it possible, as an act of comity, to order the provisional arrest and detention of Vandenberg with a view to his extradition, thereby repeating the courteous treatment accorded to the Government of the United States in the Baileys's extradition.¹ Mr. Adee further directs Mr. Sands in preferring this request to state that the Government of the United States will not be able to take reciprocal action because of statutory prohibitions in this country.

File No. 215.11 V 28.

Minister McCreery to the Secretary of State.

No. 41.]

AMERICAN LEGATION,
Tegucigalpa, July 19, 1910.

SIR: I have the honor to report that, upon receipt of the department's telegram of the 13th instant, I addressed a note to the foreign office, copy inclosed,² requesting, as an act of comity on the part of the Government of Honduras, the provisional arrest and detention of Charles Vandenberg, convicted of forgery in the State of New York, who was supposed to be traveling under the name of Carl Nicklas or other alias, and to have sailed from New Orleans July 7 on the *Agnella*, which was due in Puerto Cortes on the 13th instant.

I inclose copy and translation of Señor Retes's reply informing me, by direction of the President, that the Government of Honduras will gladly issue the necessary orders for the arrest of the fugitive.

I have, etc.,

FENTON R. MCCREERY.

[Inclosure—Translation.]

The Subsecretary for Foreign Affairs to Minister McCreery.

DEPARTMENT OF FOREIGN RELATIONS,
Tegucigalpa, July 16, 1910.

MR. MINISTER: I have had the honor to receive the note, dated yesterday, requesting, in the name of the illustrious Government your excellency so worthily represents, that the Government of Honduras, as an act of comity issue orders for the provisional arrest and detention of one Charles Vandenberg, convicted of forgery in the State of New York, and adding that the said individual is a physician by profession and is traveling under the name of Carl Nicklas on the steamer *Agnella* due in Puerto Cortes on the 13th instant, and contemplates engaging in the business of planting and mining.

¹ See Foreign Relations, 1908, p. 474.

² Not printed.

At the same time your excellency states that because of statutory provisions in the United States of America reciprocal action could not be taken by that Government.

I am instructed by the President to inform your excellency in reply that my Government grants with pleasure the above-mentioned request, and to that end will issue the proper orders.

I improve this opportunity, etc.,

R. RIVERA RETES.

File No. 215.11 V 28/4.

The Acting Secretary of State to Minister McCreery.

No. 30.]

DEPARTMENT OF STATE,
Washington, August 13, 1910.

SIR: The department is in receipt of your dispatch, No. 41, of the 19th ultimo, with which you inclose copies of notes exchanged with the foreign office of Honduras, from which it appears that the Government of Honduras will issue the necessary orders for the arrest of Charles Vandenberg, alias Carl Nicklas, whose extradition to answer the charge of forgery committed in the State of New York is desired.

The department is gratified at the action of the Government of Honduras in this matter.

Copies of your dispatch and of its inclosures have been sent to the governor of New York for his information.

I am, etc.,

HUNTINGTON WILSON.

ITALY.

EXTRADITION OF PORTER CHARLTON, AN AMERICAN CITIZEN, FROM THE UNITED STATES TO ITALY.

File 211.65 C 38.

The Italian Chargé to the Secretary of State.

[Telegram.]

NEW YORK, June 23, 1910.

Urgent. Porter Charlton, against whom Italian Government has issued warrant of arrest for murder of his wife at Moltrasio, on or about the 7th of June, has been arrested this morning at Hoboken, N. J., on landing of *Princess Irene*, and has confessed his crime to local chief of police.

I beg your excellency to kindly deliver Federal warrant pending arrival extradition documents, and to send it to me care of Italian consulate, New York.

MONTAGLIARI.

File No. 211.65 C 38.

The Secretary of State to the Italian Chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 24, 1910.

Referring to your note of June 20,¹ and particularly to your telegram of June 23, in which you request a Federal warrant, I have to say that the National Executive issues no Federal warrant in extradition cases until the fugitive is surrendered. May I inquire if you are referring to the certificate or preliminary mandate referred to in article 2 of the supplemental extradition convention of 1884? In view of the fact that Porter Charlton is understood to be an American citizen, as you indicate in your note of June 20, I beg also to inquire whether or not the department is to understand that by initiating extradition proceedings for the surrender of this American citizen accused of committing murder in Italy, your Government wishes to be understood as surrendering its view heretofore entertained and as being now willing to adopt as to cases which may hereafter arise between the two Governments, the view that the extradition treaties of 1868, 1869, and 1884 between the United States and Italy require the surrender by each Government of any and all persons, irrespective of the nationality, who, having been convicted for or charged with commission of any crime specified in the treaty within the jurisdiction of one of the contracting parties, shall seek an asylum or be found within the territory of the other, and further and specifically to inquire whether the Government of Italy now proposes as to all cases

¹ Not printed.

arising in the future to deliver to the Government of the United States under and in accordance with the treaty provisions those Italian subjects who, committing crimes in the United States, take refuge in Italy.

KNOX.

File No. 211.65 C 38.

The Italian Chargé to the Secretary of State.

[Telegram.]

ITALIAN EMBASSY,
Manchester, Mass., June 25, 1910.

Thanking you for your telegram of yesterday, I have the honor to inform you that the document I requested by my telegram of 23d instant was the preliminary warrant contemplated by article 2 of convention, April, 1884.

I am not able to answer second part of your telegram, not having yet received instructions, but have ground to believe that Italian Government would be willing to send all documents referring to the case should United States Government wish to have culprit judged by American courts for the crime he committed in Italy.

MONTAGLIARI.

File 25010/22.

The Secretary of State to the Italian Chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 25, 1910.

In view of the fact that Charlton's arrest, to secure which the preliminary mandate described in article 2 of the convention of 1884 is issued, has, it is reported, already been secured upon the complaint of the Italian consul, and in view of your telegram of June 25, I assume that you are now awaiting instructions from your Government.

KNOX.

File No. 25010/24.

The Italian Chargé to the Secretary of State.

[Telegram.]

ITALIAN EMBASSY,
Manchester, Mass., June 27, 1910.

Urgent. Judge Blair insists on having preliminary mandate prescribed in article 2 of convention of 1884, so as to maintain arrest of Porter Charlton. I beg you, your excellency, to urgently send me or directly to Italian consul, New York, the said document, so that arrest of murderer be maintained until a decision can be taken on the question.

MONTAGLIARI.

File No. 25010/24.

The Secretary of State to the Italian Chargé.

No. 864.]

DEPARTMENT OF STATE,
Washington, June 28, 1910.

SIR: I have the honor to acknowledge the receipt of your telegram of the 27th instant concerning the case of Porter Charlton and to inclose herewith the preliminary mandate requested.

In forwarding to you this preliminary mandate, which, as you know, has no other effect than merely to establish that extradition has been requested, without in any way involving a consideration of the legality or propriety of the extradition (which matters are determined when the extradition record is finally before the department), I desire to inform you that the certificate is sent with the distinct understanding that it is without prejudice to the right of this Government hereafter to determine the ultimate action to be taken by it in this case, in view of the answer already promised by the Italian Government to the question contained in the department's telegram of the 24th instant.

Accept, etc.,

P. C. KNOX.

File No. 211.65 C 38.

The Italian Chargé to the Secretary of State.

[Translation.]

No. 1074.]

ITALIAN EMBASSY,
Manchester, Mass., July 1, 1910.

MR. SECRETARY OF STATE: By telegram of June 24 last your excellency inquired whether, in instituting extradition proceedings in the case of Porter Charlton, who confessed having committed murder at Moltrasio, the King's Government intended to depart from the rule heretofore observed not to surrender its own subjects, and whether it was to be inferred that Italians guilty of an offense committed on American territory who should take refuge in Italy should hereafter be delivered without fail to the American Government.

I now have the honor to inform your excellency that the King's Government can not depart from the principle established by our law that our nationals can not be surrendered to foreign powers. Furthermore, this principle does not conflict with the provisions of the extradition convention. Indeed, it seems logical that, so far as parity in the matter of extraditing their respective citizens or subjects is concerned, each party should, in the absence of specific provisions in the convention itself, be guided by the spirit of its own legislation.

The Italian law does not consent to the extradition of nationals, but the Italian courts are competent to try, on the request of a foreign Government, their nationals who may have committed offenses on that Government's territory.

Contrariwise, the laws of the United States by not permitting local tribunals to try American citizens for offenses committed abroad seem to admit of their being extradited. Otherwise an offender

would, under the ægis of the law itself, escape the punishment he deserves.

I have the honor to inform your excellency that the requisite extradition papers in the case of Porter Charlton will be forwarded to me without delay, and in the meanwhile I beg you kindly to cause the prisoner to be held in provisional detention.

Accept, etc.,

MONTAGLIARI.

File No. 25010/36.

The Italian Chargé to the Secretary of State.

No. 131.]

[Translation.]

ITALIAN EMBASSY,
Manchester, Mass., July 12, 1910.

MR. SECRETARY OF STATE: In continuation of previous correspondence, I have the honor to transmit herewith to your excellency a copy of the warrant of arrest issued June 13 last by the examining magistrate of the civil and criminal court of Como against Mr. Porter Charlton.

Accept, etc.,

MONTAGLIARI.

File No. 25010/36.

The Acting Secretary of State to the Italian Chargé.

No. 869.]

DEPARTMENT OF STATE,
Washington, July 22, 1910.

SIR: The department has received your note of the 12th instant, inclosing a copy of the warrant of arrest, issued June 13 last, by the examining magistrate of the civil and criminal court of Como against Mr. Porter Charlton.

In reply I have the honor to inform you that the entire matter is now in the hands of the court, to whom all documents, papers, etc., which the Italian Government may have to offer in the case should now be presented.

The copy of the warrant is returned herewith.

Accept, etc.,

HUNTINGTON WILSON.

File No. 25010/36.

The Italian Chargé to the Secretary of State.

No. 1229.]

[Translation.]

ITALIAN EMBASSY,
Manchester, Mass., July 28, 1910.

MR. SECRETARY OF STATE: Referring to previous communications, and in accordance with the provisions of Article V of the extradition convention of March 23, 1868, I have the honor to lay before your excellency a formal request for the extradition of Porter Charlton, who has confessed the crime of murder committed on the person of his own wife at Moltrasio, Como, which crime is specified in Article II, section 1, of the said convention.

Your excellency has already been so good as to forward to me in note No. 864, of June 28 last, the preliminary certificate of arrest provided by Article II of the additional convention of June 11, 1884, with a view to the provisional arrest of the above-named accused.

In support of this request I have the honor to transmit herewith to your excellency the record of proceedings conducted by the court of Como in the case of the aforesaid murder. The papers are regularly viséed by the embassy of the United States at Rome.

Awaiting the Federal "warrant" and the kind return of the inclosed papers for submission to the competent court,

I avail, etc.,

MONTAGLIARI.

File No. 25010/43.

The Acting Secretary of State to the Italian Chargé.

DEPARTMENT OF STATE,
Washington, August 5, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, in which you transmit to this department certain papers in the matter of the extradition of Porter Charlton, who, you state, has confessed to the crime of murder committed on the person of his wife at Moltrasio, Como, which crime is specified in Article II, section I, of the extradition convention of March 23, 1868, between the United States and Italy.

I have the honor to return herewith the papers forwarded by you as containing the record of the proceedings conducted by the court of Como in the Charlton murder case. As the department pointed out in its letter to you of July 22 (with which it returned to you a copy of the warrant of arrest issued in this prosecution) this case is now in the hands of the court, and is not before this department; nor will it properly be before the department until the extradition magistrate shall have committed the accused for surrender; and therefore, as the department has already stated, all documents, papers, etc., which the Italian Government may have to offer in the case should be presented directly to the court now having the case in charge.

Concerning your request for the issuance of a "Federal warrant," I have the honor to call your attention to the department's telegram of June 24, in which you were informed that under the extradition procedure followed in this country the National Executive issues no Federal warrant in extradition cases until the fugitive is surrendered; and surrender takes place only after the matter has been fully considered by the courts and by the department which reviews the decision of the courts, both branches of the Government having to concur in the surrender. It is not perceived that there is anything from the regular procedure uniformly followed in extradition cases (even were such a course possible, as it is not, under American law), for which procedure the department is pleased to refer you to the following cases in which extradition proceedings have been instituted by the Government of Italy: Liberantonio Merolle (1907); Francisco Surace (1908); Pellegrino Mule (1908); and Settimio Perrotta (1908).

In view of your remark that the department has already issued a "preliminary certificate of arrest" in this case, I am constrained again to direct your attention to the actual situation set forth in the

department's letter to you of June 28 (which inclosed the preliminary mandate requested), in which you were advised that such mandate had no other effect than to indicate that extradition would be requested and that its issuance did not in any way involve a consideration of the legality or the propriety of the extradition—matters to be determined when the extradition record was finally before the department. The department at that time also informed you that the certificate was sent with the distinct undersanding that it should be without prejudice to the right of this Government hereafter to determine the ultimate action to be taken in this case.

The question of the issuance of the Federal warrant of surrender will be considered when the case is formally and properly before the department for final determination.

Accept, etc.,

HUNTINGTON WILSON.

MEMORANDUM—EXTRADITION OF PORTER CHARLTON.

DEPARTMENT OF STATE,
Washington, December 9, 1910.

On June 24, Porter Charlton was arrested on complaint of the Italian vice consul on a charge of murder committed in Italy. Formal demand for the extradition of Charlton under and pursuant to the terms of the extradition treaty between the United States and Italy was made upon this Government by the Government of Italy under date of July 28 (received by the department July 30), that is, within the 40-day period provided for this purpose in the treaty. Later Charlton was taken before an extradition magistrate who, after a formal hearing as provided for by treaty and statute, committed him on October 14 for surrender to the Italian Government.

The committing magistrate's record as transmitted to the department discloses no material informality in the proceedings, and a case calling for the surrender of the accused under the treaty terms is made out, unless such surrender is to be defeated by objections raised by counsel for the accused. These objections are in their order:

First. That the Secretary of State should decline to surrender the accused and the President should direct his discharge because the record of the committing magistrate as transmitted to the department does not contain the formal demand of the Italian Government for the surrender of the fugitive, or show that such demand was made within the treaty period; and the department may not, in passing upon the matter of surrender, take note of the fact that the demand has been made within the proper time, and that it is in the department's files forming a part of the department's record of the case, since the department may not in passing upon the question take into consideration any evidence not before the committing magistrate.

The formal demand or "requisition" of one Government upon another for the surrender of a fugitive is of a political character. It is made pursuant to and in accordance with treaty provisions, through the regular diplomatic channels, for the performance of the obligations imposed by a treaty. This "requisition" is addressed to the political branch of the one Government by the political branch of the other Government and is merely notice that the treaty provisions are to be and are thereby invoked in the matter of the surrender of fugitives. It would appear, therefore, that the making of a "requisition" is a matter which primarily concerns the political branch of the Govern-

ment, and that all questions regarding the propriety or sufficiency of the form in which it is made are for the determination of that branch.

The statutes of the United States recognize this by conferring upon the committing magistrate jurisdiction to determine whether there are probable grounds to believe that the accused has committed a crime—such grounds as would justify the placing of the accused on trial if the crime had been committed in this country; whether the crime charged constitutes an extraditable offense; and whether the accused is within the purview of the treaty; but they leave the question of sufficiency of the political or diplomatic measures of the proceeding for the determination of the diplomatic branch of the Government.

It is therefore concluded that the first objection raised by counsel for the accused in this case is without merit and of no effect in defeating extradition.

The second objection is that Charlton should not be surrendered because, under the treaty providing that each Government shall surrender persons fugitive from the one and found in the other, Italy refused to surrender to the United States for trial and punishment Italian subjects who were fugitives from the justice of the United States, therefore the United States is relieved from any obligation to surrender its citizens fugitives from Italy; and since the Executive may not surrender fugitives to another Government, except pursuant to some positive treaty obligation or congressional act, and there being no such obligation here existing, there is no authority in the Executive to surrender Charlton and he must therefore be discharged.

This contention, like the first, is without merit in this case.

The fundamental fallacy of this contention is that an extradition treaty must be wholly reciprocal. This is not true. Our own treaties will show, for example, that upon occasion we have stipulated for assistance from foreign Governments in the matter of the apprehension of criminals fugitive from our justice in other countries where we have not been able to grant and do not grant or extend such assistance in a reciprocal case. Great Britain has concluded a number of treaties in which it is expressly stipulated that Great Britain shall surrender its subjects to the other contracting party, although such party refuses to surrender its subjects in reciprocal cases to Great Britain. The report of the British commissioner on extradition made in 1878 recommends that a sound public policy does not require that British subjects should be exempt from extradition where the demanding Government refuses to reciprocate as to its own citizens.

No reason, constitutional or otherwise, is perceived why we should be constrained to take the other view.

The course followed by Italy in the present case indicates, as, indeed, is set forth in the diplomatic correspondence, that the Italian Government regards the United States and Italian treaty as being of this class—that is, nonreciprocal as to citizens or subjects of the respective countries—and that while Italy can not surrender to the United States for trial and punishment her subjects fugitive from the justice of the United States, still the United States is, pursuant to its own interpretation, under obligation to surrender to Italy for trial and punishment citizens of the United States fugitive from the justice of Italy.

The meaning of this treaty with reference to the obligation resting upon the Government of Italy to return to the United States Italian subjects fugitive from the justice of this country has been under discussion for a great many years, the Italian Government at all times

during such discussion insisting that since under Italian law it could punish Italians committing crimes in foreign countries and was by that law prohibited from surrendering Italians to such foreign countries for trial and punishment, it rested under no obligation under the treaty to surrender Italian subjects to the United States, and the United States contending that the surrender of citizens was imposed upon both countries by the treaty. After discussing the matter for a number of years the United States has so far acquiesced in the Italian construction as generally to cease to make requisition upon the Italian Government for the return of Italian citizens to this country for trial and punishment, though never formally announcing its acquiescence in the Italian construction, and on the contrary always insisting, when the question has been raised, upon the soundness of its own construction.

The question is now for the first time presented as to whether or not the United States is under obligation under the treaty to surrender to Italy for trial and punishment citizens of the United States fugitive from the justice of Italy, notwithstanding the interpretation placed upon the treaty by Italy with reference to Italian subjects. In this connection it should be observed that the United States, although, as stated above, consistently contending that the Italian interpretation was not the proper one, has not treated the Italian practice as a breach of the treaty obligation necessarily requiring abrogation, has not abrogated the treaty or taken any step looking thereto, and has, on the contrary, constantly regarded the treaty as in full force and effect and has answered the obligations imposed thereby and has invoked the rights therein granted. It should, moreover, be observed that even though the action of the Italian Government be regarded as a breach of the treaty, the treaty is binding until abrogated, and therefore, the treaty not having been abrogated, its provisions are operative against us.

The question would, therefore, appear to reduce itself to one of interpretation of the meaning of the treaty, the Government of the United States being now for the first time called upon to declare whether it regards the treaty as obliging it to surrender its citizens to Italy, notwithstanding Italy has not and insists it can not surrender its citizens to us. It should be observed, in the first place, that we have always insisted not only with reference to the Italian extradition treaty, but with reference to the other extradition treaties similarly phrased that the word "persons" includes citizens. We are therefore committed to that interpretation. The fact that we have for reasons already given ceased generally to make requisition upon the Government of Italy for the surrender of Italian subjects under the treaty would not require of necessity that we should, as a matter of logic or law, regard ourselves as free from the obligation of surrendering our citizens, we laboring under no such legal inhibition regarding surrender as operates against the Government of Italy. Therefore, since extradition treaties need not be reciprocal, even in the matter of the surrendering of citizens, it would seem entirely sound to consider ourselves as bound to surrender our citizens to Italy, even though Italy should not, by reason of the provisions of her municipal law, be able to surrender its citizens to us.

In determining the meaning which, as a matter of public morals, ought to be given to an extradition treaty, it must be remembered that under our Constitution and laws it is not possible to punish criminals in this country for crimes committed against the peace and dignity of foreign Governments, and that, therefore, unless we surrender to such foreign Governments, for trial and punishment therein, our citizens committing crimes within the jurisdiction of such Governments, such citizens will go wholly unwhipped by justice. Extradition treaties are negotiated and put into force and effect in order that persons committing crimes in one country and fleeing to another may be brought to justice, and to interpret an extradition treaty, which under our Constitution is a supreme law of the land, in a way that does violence to its obvious meaning and our consistent contention as to its meaning, so as to produce the precise situation which the treaty was designed to meet and correct, can not be justified.

For these reasons it is decided that the Government of the United States should surrender to the Government of Italy Porter Charlton, charged with the crime of murder, which crime he has confessed.

Counsel for the prisoner also contends that Charlton should not now be surrendered because the committing magistrate refused to receive testimony tending to prove his insanity. If the magistrate erred in thus refusing such testimony the prisoner has his remedy in the courts and it is not for the department, at this state of the proceedings, to pass upon this question.

P. C. KNOX.

File No. 211/65 C 38/43.

The Secretary of State to the Italian Ambassador.

DEPARTMENT OF STATE,
Washington, December 10, 1910.

EXCELLENCY: In compliance with the request made by your embassy in its note of July 28 last, and in pursuance of existing treaty stipulations between the United States and Italy, I have the honor to inclose a warrant of surrender in the case of Porter Charlton, charged with murder committed within the jurisdiction of the Kingdom of Italy, and examined and committed for surrender by the honorable John A. Blair, judge of the court of common pleas in and for the county of Hudson, in the State of New Jersey.

Accept, etc.,

P. C. KNOX.

ALLEGED DISCRIMINATION AGAINST ITALIAN SUBJECTS BY
COURTS OF PENNSYLVANIA.

File No. 18253/14.

Memorandum from the Italian Embassy.

ITALIAN EMBASSY,
Washington, November 6, 1909.

The royal embassy of Italy has received the Department of State's memorandum, dated November 4,¹ and while tendering its thanks therefor regrets its inability to yield to the explanations therein set

¹ See Foreign Relations, 1909, p. 392.

forth and to the construction placed upon articles 3 and 23 of the treaty of commerce and navigation of February 26, 1871.

Its argument hinges on the distinction between "resident Italians" and "nonresident Italians," which is not contemplated in the treaty, and the introduction of which in its interpretation would therefore seem arbitrary, and also on the meaning of the word "natives."

The Department of State takes the term "natives" in the sense of "Americans of other States," inasmuch as it lays stress on the point that Italians in Pennsylvania are accorded the same treatment as American citizens who do not belong in Pennsylvania. Now, "Americans of other States" would appear to be the opposite, or, if preferred, the counter term of "natives," which is the name used in the treaty. An "American citizen of another State" can not, as it seems, be styled a "native" "born in the place," which is the definition of the word (Webster). This would make "natives" synonymous with "Americans of the State."

As the treaty was signed by the illustrious George Perkins Marsh, who was a philologist of worth as well as an eminent diplomatist, it does not seem possible that he should have used the word "natives" in the sense of "American citizens of other States," but he must have used it in the sense of "American citizens of the State."

It seems, therefore, to the royal embassy when Articles III and XXIII of the treaty say that the Italians are on an equal footing with the natives, the word "natives" must be understood as meaning the Americans of the State—the Californians in California, Virginians in Virginia, Pennsylvanians in Pennsylvania—and that Italians in Pennsylvania should therefore be treated as the Americans of Pennsylvania—"natives."

The embassy of Italy submits the foregoing remarks to the Department of State, and begs that it will kindly take them again into consideration.

File No. 18253.

Memorandum to the Italian Embassy.

DEPARTMENT OF STATE,
Washington, November 16, 1909.

In further reply to the memorandum of the Italian Embassy of November 5 last, with reference to the case of *Maiorano v. The Baltimore & Ohio Railway*, in which it is stated that the embassy can not yield to the department's explanation as set forth in its memorandum of November 4 last, the department is constrained to reiterate the view in its memorandum above referred to—that is, that articles 3 and 23 of the treaty of February 26, 1871, confer upon Italian subjects the same rights enjoyed by citizens of the United States and no greater, while, at the same time, subjecting them, as a necessary condition, to the limitations upon the exercise of rights enjoyed by citizens of this country.

As under the laws of Pennsylvania citizens of the United States must reside within the State of Pennsylvania in order to avail themselves of certain rights under its laws, it does not seem that Italian subjects can claim any greater rights than citizens of the United States, unless greater rights and privileges are expressly granted to

them by treaty, and the wording of the treaty shows that Italian subjects are to enjoy no greater rights.

Under the construction placed upon these articles by the Supreme Court of the United States, citizens of the United States residing in Italy are placed upon the same footing of equality with Italian subjects residing in Italy so far as the enforcement of rights in Pennsylvania is concerned.

As heretofore stated, the department is of opinion that the construction placed upon these articles by the Supreme Court is the true construction and does not discriminate against Italian subjects in favor of citizens of the United States, the latter being subjected under the laws of Pennsylvania to the same conditions as Italian subjects—that is, residence in that State in order to recover damages for the death of a relative therein.

The Department of State has carefully considered the proposition of the Italian Embassy that the treaty be amended in order to give greater rights to Italian subjects than they enjoy under the present treaty as interpreted by the Supreme Court of the United States. While solicitous to meet the desires of the embassy in this respect, the department regrets to state that it deems an amendment to the treaty inadvisable.

File No. 18253/14.

Memorandum to the Italian Embassy.

DEPARTMENT OF STATE,
Washington, January 12, 1910.

In further reply to the memorandum of the Italian Embassy of November 5 last, with reference to the case of *Maiorano v. The Baltimore & Ohio Railway*, in which it is stated that the embassy can not yield to the department's explanation as set forth in its memorandum of November 4 last, the department is constrained to reiterate the view in its memorandum above referred to; that is, that articles 3 and 23 of the treaty of February 26, 1871, confer upon Italian subjects the same rights enjoyed by citizens of the United States and no greater, while, at the same time, subjecting them, as a necessary condition, to the limitations upon the exercise of rights enjoyed by citizens of this country.

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The Department of State has carefully considered the proposition of the Italian Embassy that the treaty be amended in order to give greater rights to Italian subjects than they enjoy under the present treaty as interpreted by the Supreme Court of the United States. While solicitous to meet the desires of the embassy in this respect, the department regrets to state that it deems an amendment to the treaty inadvisable.

File No. 18253/17.

Memorandum from the Italian Embassy.

ITALIAN EMBASSY,
Washington, February 19, 1910.

Referring further to the memoranda of the Department of State bearing date of November 4, 1909, and January 12, 1910, with reference to the case of *Maiorano v. Baltimore & Ohio Railroad Co.*, written upon the assumption that the Supreme Court of Pennsylvania has held that citizens of the United States not residing in Pennsylvania are not entitled to recover for the deaths of relatives occurring in that State, the Royal Italian Embassy is constrained to differ from this assumption, as its reading of the decision of the Supreme Court of Pennsylvania does not sustain the same.

In order to fully understand the *Maiorano* decision it is necessary to consider the case of *Deni v. Pennsylvania Railroad* (181 Pa. S., 525), as the *Maiorano* decision followed the doctrine first enunciated in that case. The action in the *Deni* case was brought by the mother, a nonresident alien, for the death of her son in Pennsylvania, and she was refused the right to recover expressly upon the ground that she was a nonresident alien, and not merely because she was a nonresident. The court said:

Our statute was not intended to confer upon nonresident aliens rights of action not conceded to them or to us by their own country. * * * We have a number of statutes which expressly confer rights upon aliens but none which confer them by implication or inference. When the legislature intends to concede nonresident aliens the rights which our own citizens have under and by virtue of the act of April 26, 1855, it will say so.

In the *Maiorano* case the Supreme Court of Pennsylvania said:

A single fact, nonappearing and of course not considered in the case of *Deni v. P. R. R. Co.* (181 Pa. Sta., 525) is relied upon to distinguish this case from that and exempt it from the operation of the rule there declared. That case expressly decides that a nonresident alien has no standing to maintain an action under the act of April 26, 1855, for the recovery of damages for injury to another causing death. There, as here, the party claiming the right of action was a nonresident alien, the citizenship in both cases being the Kingdom of Italy.

* * * * *

A statute right is given our citizens in such case, but the plaintiff, as we have seen, with respect to any such claim is not within any treaty privileges, but is simply an alien. This being the case, the doctrine of *Deni v. P. R. R. Co.* applies, and it results that a nonsuit was properly ordered.

There is no statement whatever in either of these cases that citizens of the United States not resident in Pennsylvania are excluded from the benefit of the act.

The act itself reads as follows:

The persons entitled to recover damages for any injury causing death shall be the husband, widow, children, or parents of the deceased and no other relative.

Under this broad and unrestricted language, taken in its ordinary sense, the relatives specified are entitled to recover whether they be native or alien, resident or nonresident. The Supreme Court of Pennsylvania has only decided that nonresident aliens are not entitled to the benefit of the act, and consequently citizens of the United States not residing in Pennsylvania are entitled to recover unless and until there shall be some decision of the Supreme Court of Pennsylvania to the contrary. In other words, the court has read into the act a restriction against the recovery by nonresident aliens, not by all nonresidents.

The understanding of the embassy on this point is further supported by reference to the reasoning of the Supreme Court of Wisconsin, the only State which now follows the Pennsylvania rule on this question. In the case of *McMillan v. Spider Lake S. M. & L. Co.* (115 Wis., 332), a Canadian mother sued for the death of her son in Wisconsin and was denied the right of recovery, not because she was a nonresident, but because she was not a citizen of the United States.

The court said:

It also appears from the testimony of the deceased's brother that the deceased left no issue, and was unmarried, and that his father was dead; that his mother was still living in Canada, where she had lived for many years; that she had no property; that the deceased had been accustomed to send his mother \$10 a month when he could spare it; that she never lived in nor became a citizen of the United States; that his father lived nearly all his life at the same place where his mother did, and that he did not think he was ever a citizen of the United States. Upon such undisputed evidence it is claimed on the part of the defendant that under our statute this action can not be maintained for the benefit of the mother of the deceased, a nonresident alien.

* * * * *

Upon this principle and under a statute similar to ours it was held in Pennsylvania that "a nonresident alien mother has no standing to maintain an action against a citizen of Pennsylvania to recover damages for the death of her son." *Deni v. Pennsylvania R. Co.* (181 Pa. St., 525; 37 Atl., 558). In that case the court used this language:

"Our statute was not intended to confer upon nonresident aliens rights of action not conceded to them or to us by their own country, or to put burdens on our own citizens to be discharged for their benefit. It has no extraterritorial force, and the plaintiff is not within the purview of it. While it is possible that the language of the statute may admit of a construction which would include nonresident alien husbands, widows, children, and parents of the deceased, it is a construction so obviously opposed to the spirit and policy of the statute that we can not adopt it. (181 Pa. St., 528, 529; 37 Atl. 559.)"

* * * * *

We must hold that the sections of the statutes relied upon do not give to nonresident alien relatives of one who is instantly killed, or who dies without conscious pain, a right of action for the loss sustained by reason of such death.

From the above it is apparent that the plaintiff was refused the right of recovery solely because she was an alien, and she would have been permitted to recover if she had been a citizen of the United States, though not a citizen or resident of Wisconsin.

As the effect of the decision of the Supreme Court of the United States in the *Maiorano* case is to restrict and qualify the nature of the protection which Italian subjects are entitled to receive under the terms of the treaty, it should be pointed out that at the time of the making of the treaty it must have been considered that the term

"equal protection" would be interpreted thereafter in a most liberal and unrestricted sense, so as to afford to the citizens or subjects of the contracting powers absolutely equal protection of all kinds and degrees, whether proximate, remote, direct, or indirect. This conclusion is based upon the decisions of the Supreme Court beginning as early as 1830 in the case of *Shanks v. Duponts* (3 Pet., 253) and continued through *Hauenstein v. Lyman* (100 U. S., 483), *Geoffry v. Riggs* (133 U. S., 266), and *Tucker v. Alexanderuff* (133 U. S., 437), which policy was not departed from until the rendition of the decision in the *Maiorano* case, when suddenly a strict and technical construction seems to have been upheld.

In view of the foregoing the Department of State is requested to give further consideration to the subject.

Memorandum to the Italian Embassy.

File No. 18253/17.

DEPARTMENT OF STATE,
Washington, March 1, 1910.

The department has examined very carefully the memorandum submitted by the Italian Embassy on the 19th instant, relative to the case of *Maiorano v. The Baltimore & Ohio Railroad Co.*, but is unable to reach a conclusion different from that heretofore expressed in the matter, the Supreme Court of the United States having decided the question on the broad ground that by a fair interpretation, the provisions of the treaty of 1871 did not confer upon nonresident aliens the same rights as are enjoyed by actual residents in Pennsylvania, and that, therefore, in refusing to allow the plaintiff, who had never been within the State of Pennsylvania, to recover damages under a statute of that State, no treaty rights were violated.

As stated in the concluding paragraph of the Supreme Court's opinion—

If an Italian subject, sojourning in this country, is himself given all the direct protection and security afforded by the laws to our own people, including all rights of actions for himself or his personal representatives to safeguard the protection and security, the treaty is fully complied with without going further and giving to his nonresident alien relative a right of action for damages for his death, although such action is afforded to native resident relatives, and although the existence of such an action may indirectly promote his safety.

File No. 18253/18.

The Italian Chargé to the Secretary of State.

[Translation.]

No. 547.]

ITALIAN EMBASSY,
Washington, March 21, 1910.

MR. SECRETARY OF STATE: In compliance with your excellency's request, made through Mr. Huntington Wilson, I have the honor to state herein below the proposals submitted by the King's Government to that of the United States for the recognition of the rights of Italian victims of accidents in the State of Pennsylvania and of the heirs which, in the opinion of the King's Government, are undoubtedly conferred upon them by the Italo-American treaty of com-

merce and navigation of 1871, and have been denied by the judgment rendered by the Supreme Court of the United States in the case of *Maiorano v. the Baltimore & Ohio Railroad*.

The laws of Pennsylvania of 1851 and 1855 do not include the family of a victim of an accident, even though it should reside outside of the State territory, from the right to bringing suits on account of the accident. This is a matter of true and actual right of inheritance. A denial of that right is not only repugnant to every principle of equity and humanity and would, to a certain extent, induce the industrial establishments to be less careful in protecting the lives of their Italian laborers, but it is contrary to the provisions of our treaty. Italy, where no distinction is made in cases of accident between claimants residing in the Kingdom and those residing abroad, has covenanted with the United States a treaty which guarantees to its citizens the fullest protection in their persons and property, and consequently the liberty of bringing before the courts the pleas and actions which flow from that title. Hence it can not recognize the right of local tribunals to distort and modify the meaning and import of the provisions contained in the treaty itself. The Department of State has itself admitted that it was really the intention of the two contracting parties in concluding the treaty to extend to Italians in the United States the rights enjoyed by American citizens (memorandum of the State Department of Nov. 4, 1909, and of Jan., 1910) in the same manner, anyway, as citizens of the United States have at all times and indiscriminately been accorded equal treatment with the nations of the Kingdom.

As a remedy to the condition of affairs resulting from the judgments rendered in the *Maiorano* case, which condition is contrary to the letter and spirit of the treaty, the King's Government proposes: Either an additional agreement under which it will be made clear that according to the interpolation indisputably put upon article 3 of the treaty of 1871 by the King's Government, action on account of accidents is open to the relatives of the deceased Italian, even though they may not reside within the territory of the United States, so that no doubt can any longer be entertained by the judicial authorities as to the scope of the said article.

Or an arbitration, as provided by the existing Italo-American convention, for an examination and solution of the controversy born of the *Maiorano* case.

Inasmuch as the Department of State has already declared in its memorandum of January 12 that it considered the first of these proposals as inadvisable, I would not revert to the subject did I not feel myself authorized by what Mr. Huntington Wilson told me to beg anew your excellency will with your habitual courtesy and well-known benevolence reconsider again the decision that has been reached in the matter.

I have the honor to have recourse to your excellency's extreme courtesy and to pray that you will be pleased to acquaint me, as soon as it shall have been determined, with the Federal Government's sentiment in regard to the two propositions above indicated, and I embrace this opportunity, etc.,

MONTAGLIARI.

The Secretary of State to the Italian Chargé.

No. 852.]

DEPARTMENT OF STATE,
Washington, May 20, 1910.

SIR: Referring to your note, No. 547, of March 21 last, a formal reply to which will be made in due course, and to your various conferences with the counsellor for the department regarding the Maiorano case, and to the provisions of article 3 of the treaty of 1871 between the United States and Italy, I have the honor to say that the questions raised by your note are of much interest to the Government of the United States, and the Department of State is therefore considering the matter with care in order that the final attitude adopted by this Government shall be taken with due regard as well to all of the attending facts and circumstances as to the ultimate effect and results which may flow from its action. The department will have pleasure in communicating to you its determination in this matter as soon as the same shall have been reached.

Meanwhile I desire to renew to you the assurances given by the counsellor for the department in the course of his conferences with you, that in reaching a conclusion upon the matters raised by your note the department will act under a full sense of the importance of the questions involved and with a disposition to grant to Italian citizens, resident or nonresident, not only such rights and privileges as are due to them under the obligations imposed by treaty and by the rules of international law, but in addition such other rights and privileges as will be consonant with the best interests and welfare of this Government.

Accept, sir,

(For Mr. KNOX.)
HUNTINGTON WILSON.

File No. 18253/24.

The Acting Secretary of State to the Italian Ambassador.

No. 891.]

DEPARTMENT OF STATE,
Washington, October 1, 1910.

SIR: Referring to previous correspondence in regard to the case of Carmino Maiorano, and particularly to this department's note of May 20 last, I have the honor to say that with a due appreciation of the importance of the questions involved in the discussion which has taken place between yourself and this department regarding this case, the department has given the whole matter a most thorough, attentive, and careful consideration and has, as a result thereof, reached the following conclusions upon the points involved:

As you will recall, the questions have arisen out of and are connected with the following facts and circumstances:

On December 23, 1903, one Carmino Maiorano, an Italian subject, was killed on the Baltimore & Ohio Railroad at or near Connellsville, in the State of Pennsylvania. After his death, his widow, Maria Giuseppe Raffaella Maiorano, on behalf of herself and her two children brought suit in the Pennsylvania courts, alleging in her complaint that she was a resident of the Kingdom of Italy and a subject of the King of Italy, and prayed damages for the loss suffered by herself and her children by reason of the death of her husband.

The Pennsylvania statutes upon which this suit appears to have been based read as follows:

Whenever death shall be occasioned by unlawful violence or negligence, and no suit for damages be brought by the party injured during his or her life, the widow of any such deceased, or, if there be no widow, the personal representatives may maintain an action for and recover damages for the death thus occasioned. (Act of Apr. 15, 1851, sec. 19, Pennsylvania laws.)

The persons entitled to recover damages for any injury causing death shall be the husband, widow, children, or parents of the deceased, and no other relatives; and the sum recovered shall go to them in the proportion they would take his or her personal estate in case of intestacy, and that without liability to creditors. (Act of Apr. 26, 1855, sec. 1, Pennsylvania laws.)

The court in which the case was first tried, in accord with the principle laid down in the case of *Deni v. Pennsylvania Railroad* (181 Pennsylvania State Reports, 525) entered a compulsory nonsuit which it subsequently refused to take off.

The supreme court of Pennsylvania, upon the case being taken to that tribunal, decided, also following the case of *Deni v. Pennsylvania Railroad Co.*, supra, that the nonsuit was properly ordered.

In the earlier case cited and relied upon by both courts, that of *Deni v. Pennsylvania Railroad Co.*, Mr. Justice McCollum, delivering the opinion of the court, made the following declaration regarding the meaning and scope of the statute of 1855, above quoted:

While it is possible that the language of the statute may admit of the construction which would include nonresident alien husbands, widows, children, and parents of the deceased, it is a construction so obviously opposed to the spirit and policy of the statute that we can not adopt it. A nonresident defendant is not entitled to the benefit of our exemption laws, although the language of these laws may admit of a construction which would include him.

* * * * *

We have a number of statutes which expressly confer rights upon aliens, but none which confers them by implication or inference. When the legislature intends to concede to nonresident aliens the rights which our citizens have under and by virtue of the act of April 26, 1855, it will say so.

Alleging that this decision of the court violated the rights to which she was entitled by the provision of the treaty of 1871 between the United States and Italy, Mrs. Maiorano, the plaintiff, took an appeal from the decision of the supreme court of Pennsylvania to the Supreme Court of the United States, where Mr. Justice Moody, voicing the unanimous opinion of the court, delivered, after stating that "the only question for our decision is whether a proper interpretation and effect were allowed to the treaty," the following decision of the court:

We put our decision upon the words of the treaty. By a fair interpretation of them did they directly confer upon the plaintiff the right which she seeks to maintain? We are of the opinion that they did not.

Three articles only are relied on as material. They are:

ARTICLE 2. The citizens of each of the high contracting parties shall have liberty to travel in the States and Territories of the other to carry on trade, wholesale and retail, to hire and occupy houses and warehouses, to employ agents of their choice, and generally to do anything incident to, or necessary for trade, upon the same terms as the natives of the country, submitting themselves to the laws there established.

ARTICLE 3. The citizens of each of the high contracting parties shall receive, in the States and Territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are, or shall be, granted to the natives, on their submitting themselves to the conditions imposed upon the natives.

ARTICLE 23. The citizens of either party shall have free access to the courts of justice, in order to maintain and defend their own rights, without any other conditions, restrictions, or taxes than such as are imposed upon the natives. They shall, therefore,

be free to employ, in defense of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidences which may be exhibited in the said trials.

Article 23 bestows upon citizens of either power, whether resident or nonresident, free access to the courts, "in order to maintain and defend their own rights," with the ancillary privileges of suitors. This article does not define substantive rights, but leaves them to be ascertained by the law governing the courts and administered and enforced in them.

Articles 2 and 3 deal with the rights of the citizens of one party sojourning in the territory of the other. There seems to be nothing pertinent to the case in article 2. But special stress is laid upon article 3, which stipulates for the citizens of each, in the territory of the other, equality with the natives of rights and privileges in respect of protection and security of person and property. It can not be contended that protection and security for the person or property of the plaintiff herself have been withheld from her in the territory of the United States, because neither she nor her property has ever been within that territory. She herself, therefore, is entirely outside the scope of the article. The argument, however, is that if the right of action for her husband's death is denied to her, that he, the husband, has not enjoyed the equality of protection and security for his person which this article of the treaty assures to him. It is said, that if compensation for his death is withheld from his surviving relatives, a motive for caring for his safety is removed, the chance of his death by unlawful violence or negligence is increased, and thereby the protection and security of his person are materially diminished. The conclusion is drawn that a full compliance with the treaty demands that, for his protection and security, this action by his surviving relative should lie. The argument is not without force. Doubtless one reason which has induced legislators to give to surviving relatives an action for death has been the hope that care for life would be stimulated. This thought was dwelt upon in *Mulhall v. Fallon*, supra, in considering a statute which made the amount recoverable dependent upon the degree of culpability of the negligent person. Another reason for such legislation, quite as potent, was the desire to secure compensation to those who might be supposed to suffer directly and materially by the death. This thought seems to have been uppermost in Pennsylvania, according to the courts of that State. See *Chambers v. B. and O. R. R. Co.*, 207 U. S., 142, and cases cited. Without dwelling further upon the purpose and effect of legislation of this kind, and assuming that both might be calculated in some degree to increase the protection and security of persons who may be exposed to dangers, we are of opinion that the protection and security thus afforded are so indirect and remote that the contracting powers can not fairly be thought to have had them in contemplation.

If an Italian subject, sojourning in this country, is himself given all the direct protection and security afforded by the laws to our own people, including all rights of action for himself or his personal representatives to safeguard the protection and security, the treaty is fully complied with, without going further and giving to his nonresident alien relatives a right of action for damages for his death, although such action is afforded to native resident relatives, and although the existence of such an action may indirectly promote his safety. (213 U. S., 268.)

As you yourself know, and as was recognized by the minister of foreign affairs, Signor Tittoni, in his speech before the Italian Parliament on June 7, 1909, this decision of the Supreme Court of the United States is, so far as the Government of the United States is concerned, conclusive as to the meaning of this treaty, and it must therefore be considered, as Signor Tittoni seems to admit, as pronouncing the attitude of this Government upon the Maiorano case.

It might, however, be observed that even though the Department of State were not, as it is, controlled as to the interpretation of the treaty by the decision of the Supreme Court, yet it would, as the result of an independent investigation of the questions therein involved, find itself brought to the same conclusions reached by that court, and for the following reasons:

As pointed out in the Supreme Court decision, there are three articles of the treaty of 1871 which have been invoked at one or another stage of the discussions of this matter, with a view to main-

taining the contentions put forward on behalf of the plaintiff in this case. These are the articles numbered 2, 3, and 23. The reading of article 23, which will be first considered, is as follows:

The citizens of either party shall have free access to the courts of justice, in order to maintain and defend their own rights, without any other conditions, restrictions, or taxes than such as are imposed upon the natives; they shall, therefore, be free to employ, in defense of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law, and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidence, which may be exhibited in said trials.

Concerning the provisions of this article as thus quoted it should be observed that contrary to the opinion expressed by you in your memorandum of October 26, 1909, the department, after careful consideration, finds itself confirmed in the view it first took, that the decisions of the Pennsylvania courts do not violate article 23 of the treaty, which article, as was so clearly stated by our Supreme Court, merely "bestows upon citizens of either power, whether resident or nonresident, free access to the courts 'in order to maintain and defend their own rights' with the ancillary privileges of suitors. This article does not define substantive rights but leaves them to be ascertained by the laws governing the courts and administered and enforced in them."

It would appear that there can be no question (indeed, the matter seems not to have been mooted) that in this case the plaintiff, even though a nonresident Italian subject, had ample and free access to the courts of the United States, that those courts to which she applied gave her the same hearing and the same rights at the hearing that they give not only to other aliens but to American citizens as well, and that nothing was put in the way either of the plaintiff or of her attorney that even in the slightest degree militated against a full, fair, complete, and impartial hearing, presentation, and consideration of the complaint which the plaintiff had to make. It is therefore confidently submitted that the case can not be considered as involving any disregard whatsoever of the obligation imposed by article 23 of the treaty.

The provisions of article 2, which have also been invoked in this controversy, read as follows:

The citizens of each of the high contracting parties shall have liberty to travel in the States and Territories of the other, to carry on trade, wholesale and retail, to hire and occupy houses and warehouses, to employ agents of their choice, and generally to do anything incident to or necessary for trade upon the same terms as the natives of the country, submitting themselves to the laws there established.

It will be observed that this article specifically enumerates certain rights which shall be enjoyed by citizens of each of the territories in the other, such rights being "the liberty to travel in the States or Territories of the other, to carry on trade, wholesale or retail, to hire and occupy houses and warehouses, to employ agents of their choice, and generally to do anything incident to or necessary for trade upon the same terms as the natives of the country, submitting themselves to the laws so established."

It is believed to be unnecessary to enter into any extended argument to show that the right claimed by the plaintiff in this case is not among those enumerated in this article, nor is it a necessary incident of any right therein enumerated, nor may it be logically

inferred from the grant of any right mentioned in the article, and this being true, it can be scarcely maintained that the decision of this case violates any of the provisions of this article of the treaty, which must, therefore, be regarded as disappearing from the discussion.

The remaining article cited in support of the claimant's contention, article 3 of the treaty, reads, in its first paragraph (the paragraph which contains the provisions upon which reliance is placed), as follows:

The citizens of each of the high contracting parties shall receive in the States and Territories of the other the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or shall be granted to the natives on their submitting themselves to the conditions imposed upon the natives.

A careful reading of this paragraph will show that the right conferred by it is the right of "the most constant protection and security for their persons and property" of the citizens of one country resident in the other; that is, this provision stipulates as to security and as to protection of the persons and of the property of "citizens of each of the contracting parties * * * in the States and Territories of the other." The article also stipulates that as to such protection and security for such persons and property citizens of either shall enjoy the same rights and privileges as are or shall be granted to natives.

It would appear to be unnecessary to elaborate any argument in order to demonstrate that to bring a given case within the provisions of this article it must be shown either that the protection or security of some person falling within the purview of the treaty is threatened, or that the protection or security of some property belonging to some such person is endangered. Since it does not appear that in the present case any complaint whatever is made regarding the protection or security of the person of the plaintiff in this case, this particular question may be dismissed; and it necessarily follows from the elimination of this factor that in order that the case may be brought within the provisions of this article of the treaty it must be made clearly to appear—first, that proper protection and security have not been given to some property or property rights possessed by the claimant; and, secondly, that the claimant falls within the class of persons contemplated and described by the stipulations of the treaty hereinbefore quoted. Therefore, the first and fundamental question in the *Maiorano* case is not the question of the protection and the security of a property right already acknowledged to exist, but is the question of the very existence of any property right at all to which the treaty provisions could attach and in favor of which they could be invoked; and upon this question the Pennsylvania courts have held and the Supreme Court of the United States has affirmed that no such property right existed in this case in favor of the Italian subject, plaintiff in this case, and that therefore no treaty right has been violated.

Upon this question as to whether or not there is an existing property right in this case in favor of the plaintiff, the following observations are submitted:

It will, in the first place, be observed that the gist of the present claim is that a certain sum is due to the plaintiff as alleged damages

suffered by her as the result of the accidental and innocent death of her husband while he was employed upon and about the defendant's railroad. In order, therefore, to afford any just grounds for complaint in this case it must be made to appear that this situation raised in favor of the claimant and against the defendant railroad company a right which it is the duty of the American courts to enforce for the plaintiff's benefit. With this in mind it may be next and further observed that it is a principle now regarded as well settled in Anglo-Saxon jurisprudence, both English and American, that at common law there was no such right accruing to the survivors of individuals losing their lives under the circumstances set forth in this case, as is sought to be enforced by the present plaintiff (as above stated), and this was the condition of the common law upon this matter for centuries during which time the complicated doctrines governing negligence and contributory negligence grew up and were perfected. In the course of time, however, and as social and economic systems became more complex, the insufficiency of the common law, as this developed upon this point, became so apparent and the need for a change therein seemed so clear, that in 1846 the Parliament of Great Britain undertook to pass some remedial legislation and pursuant to that plan enacted the now famous Lord Cambell's act (Stats. 9 and 10, Vic. c. 93, secs. 1 and 2), by and under which, in appropriate cases, certain surviving relatives of persons killed became entitled to damages for the death of the deceased. Since this, the earliest statute upon the subject, became a law, practically all countries governed by the common law have enacted similar legislation. In interpreting this legislation, however, there has been almost perfect unanimity among the courts in holding that these statutes create totally new rights of action for the death of certain individuals, to be enforced against the responsible parties, and that such statutes do not and were not intended merely to keep alive the action which the deceased might have had for the injuries received by him had he lived.

Upon this point it may be well to quote a well-recognized American authority who lays down the law regarding this principle as follows:

In this country (United States), as in England, the legislation upon which this topic has been construed by most courts has created an entirely new cause of action, and not as transferring to the personal representative the right of action, which the deceased would have had, if he had survived the injury, although the statutes of some States have been differently construed. As the cause of action is thus purely statutory, the plaintiff is bound to show that he is the proper person to bring the action; that at least one of the class named as beneficiaries is in existence and entitled to damages; and that the defendant comes within the class to whom the statute applied. (Burdick Law of Torts, p. 233, and see Pollock on Torts, p. 66, et seq., eighth ed.)

Inasmuch, therefore, as the right is statutory, that is, created by statute, and in no wise part of the common law, and as, in order to recover under the statute, it is necessary for the claimant to show that he is one of those in whose favor the statute creates a right, it is obvious that unless the plaintiff in a particular case, comes within that class, that then and in that event no right of action can be said to exist. It was with these principles in mind that the Pennsylvania courts and the Supreme Court of the United States held that the claimant in this case had no right of action against the railroad company.

It seems scarcely necessary in this connection to call to your attention the principle that, under American law, the question of the interpretation of the law, statute and common, has, by the Constitution of the United States, been made a matter for the determination of the judiciary, State or Federal, and that a law has that meaning, and must be so construed and administered, which is placed upon it by judicial interpretation. It follows naturally from this principle, and such is the universal practice, that as to the particular law or statute in question, the executive and legislative branches of the Government are bound by the interpretation placed upon it by the judiciary, and if the judiciary fails to give to a law the meaning or interpretation which the legislature intended should be given to it, the remedy in such cases is to be obtained by amended and supplemental legislation. It was the appreciation of these principles which led the supreme court of Pennsylvania, in the *Deni* case, to remark that "when the legislature intends to concede to nonresident aliens the rights which our own citizens have under and by virtue of the act of April 26, 1855, it will say so." And in this connection it is surely not without significance to note that notwithstanding these two decisions of the courts of Pennsylvania, the last of which was affirmed by the Supreme Court of the United States, the legislature of Pennsylvania has as yet taken no steps, so far as is known, to enact the legislation necessary to confer upon nonresident aliens the rights conferred upon others by the statutes of 1851 and 1855; and the conclusion is inevitable, therefore, that to the present time, the legislature of Pennsylvania has had no disposition to extend the statute beyond the interpretation given to it by the Pennsylvania courts.

It is therefore submitted with all confidence that as to the existence of the right of action sought to be enforced in this case it must be regarded as established—first, that the right here sought to be enforced did not exist in common law; second, that such right could and does exist only where and after being specially created and conferred by statute; third, that the courts of the United States, State, and Federal, have held that the Pennsylvania statute conferred no such right; fourth, that the courts which have so ruled are the proper parties to interpret the meaning of the laws and statutes of the United States; and fifth, and finally, that so far as the attitude of the Government of the United States is concerned this determination by its highest court upon the question of the interpretation of a statute must be regarded as definitive.

It would appear necessarily to follow from the foregoing that since the plaintiff in this case possesses no property or property right to which the jurisdiction of the court can attach and upon and concerning which it can deliver and enforce judgment, there is no sufficient ground upon which to base any objection whatsoever to the decisions of the courts in this case.

Since the solution of this, the first, point presented—that is, whether or not a property right is involved in this case—results in a negative conclusion; and, as already pointed out, since the existence of a property is the *sine qua non* to the invocation of the treaty provisions in this case, it becomes unnecessary to consider the second point presented—that is, whether or not the plaintiff in this case falls within that class of individuals contemplated and provided for by article 3 of the treaty.

The Government of the United States must, therefore adhere to its position already taken, that the decisions of the Pennsylvania courts and of the Supreme Court of the United States in this case, in no way violate the obligations imposed by the treaty of 1871 between the United States and the Kingdom of Italy; and I am constrained again to suggest that I do not perceive any ground upon which it can be successfully contended that this shall not be regarded as a final disposition of the present case, and that this department therefore considers the matter as closed.

Inasmuch, however, as in the course of the correspondence and conferences had regarding this case, it has been suggested that the questions in connection with this case be submitted to arbitration, I am constrained to add some further observations regarding this phase of the representations of your Government.

It would appear under the analysis made above, that the only questions which could be submitted to arbitration in connection with this case would be—first, whether or not a statute conferring upon citizens and resident aliens certain rights which were denied to nonresident aliens, was contrary to the duties and obligations imposed by the treaty; or, secondly, whether the interpretation placed upon the American statutes by the American courts was a correct interpretation.

The first proposition reduces itself to the question whether or not the treaty permits the Government of the United States, or any of the component States, without violating any of the treaty obligations of the United States, to confer upon citizens and resident aliens rights which do not extend to nonresident aliens; and to state this question would appear to be to answer it. It is believed that there is no principle of international law which could be invoked in support of any such contention. On the contrary, indeed, it is a fundamental principle of the law of nations that not only may rights conferred upon citizens be reserved from nonresident aliens, but even that aliens permanently residing in the country may be denied rights which are given citizens; and this rule applies not only to civil rights, but to property rights as well. In this connection it is necessary to do more than cite, as to civil rights, the all but universal and the unquestioned practice of denying to aliens the right of suffrage; and as to property rights, the very general denial to aliens of the right to hold real property and to have the same descend in the same manner in which real property may be held by and may descend to citizens.

It need scarcely be suggested that neither the Government of Italy nor the Government of the United States could have contemplated that any other or different interpretation should be given to this treaty than that contended for by the United States, or if different, that such interpretation could be based upon a derogatory principle of so far reaching and important a character and so fundamental in its bearings and effects as that which would be involved in the determination of the question suggested.

Inasmuch, therefore, as an arbitral decision adverse to the United States upon this question would not be in accord with the well-recognized principles of international law and would, as to the treatment of aliens, be contrary to a policy followed by this Government since it first became a member of the family of nations—a policy which has been regarded as fundamental to its needs and welfare—

and inasmuch as it could hardly be expected that the Government of the United States could, by reason of one isolated case, find it possible permanently to carry out the policy of a decision that placed it under obligation to overthrow a national policy thus well settled and established; and, finally, inasmuch as were such a decision to be rendered it would doubtless be found necessary, in view of all the circumstances, for this Government to take steps to abrogate the present treaty and to attempt to secure the negotiation of another more in consonance with the principles of international law and with its own national honor, dignity, and integrity, I need scarcely point out to you that the question under consideration would appear to be of the character of those which are by the very terms of the arbitration treaty between the United States and Italy expressly excluded from the category of matters that the two Governments have therein so solemnly undertaken to arbitrate.

Regarding the second question that might be presented for submission to arbitration—namely, whether or not American courts have properly interpreted American statutes under the circumstances existing in this case—I am convinced that this is not, any more than the question first indicated, a question properly the subject of international arbitration. It may, of course, be that where one nation is prepared to say as to the legislation of another nation that such legislation is improper, that it is contrary to the law of nations, or that it is outrageous in its application and operation, or that it is discriminatory in its effects, such nation may expect the offending nation to submit to arbitration the wrongs suffered by citizens of the complaining State as a result of such legislation; but in the absence of any such aggravating circumstances and conditions it will not, I believe, be contended that the mere interpretation of the statute itself is a proper subject for determination by arbitral tribunal.

For these reasons, confident though I am that the treaty does not have the meaning sought to be placed upon it, and that it would not bear any such construction, yet since the matters involved in the questions indicated affect the vital interests of this Government, I find myself unable to accept your suggestion that the matter be referred to arbitration at The Hague.

In closing this communication I desire to say that it is with a feeling of no little satisfaction that I am led to believe from the statements made in the communications you have addressed to the department that the decision in the Maiorano case will have upon such cases but comparatively little practical effect (so far as the general conditions existing in this country are concerned), since I understand you to say that there are now but three States in the Union in which the law is the same as that existing in the State of Pennsylvania, the law in all the other States of the Union, save these three only, being such as to permit nonresident Italian subjects occupying the position in which Mrs. Maiorano finds herself placed to recover from the employing company in appropriate cases an indemnity for the death of the deceased relative. This being the present state of the law, it would appear that the tendency of all American legislation is to increase the scope of such indemnity statutes so as to include relatives of persons dying from injuries, no matter where such relatives may be living and no matter whether they be aliens or citizens, and I am therefore confident in the hope and expectation

that the legislation in this country will upon this subject soon become uniform, and so remove all cause for complaint based upon these considerations. In order that this end may be speedily reached, I beg to assure you that should your Government desire this department so to do I should be pleased to draft a communication to the governors of the States named by you as not now giving to non-resident alien subjects the rights which your Government desires for them in this matter, in which communication I shall be glad to direct the attention of such governors to the actual conditions existing and to the complaints which have been made regarding the limitations of the statutes in force in their States, and to add to such statements an expression of hope that the governors may see their way clear to recommend to their respective legislatures the enactment of such legislation as will bring the laws of their respective States more into harmony with those existing in other parts of the Union upon this question.

Accept, etc.,

ALVEY A. ADEE.

ALLEGED VIOLATION OF ARTICLE 6 OF THE CONSULAR CONVENTION OF 1878 BETWEEN THE UNITED STATES AND ITALY.

File No. 22205/9.

The Secretary of State to the Italian Ambassador.

DEPARTMENT OF STATE,
Washington, January 13, 1910.

EXCELLENCY: Referring to previous correspondence¹ relative to the attempted service by a deputy of the State of Colorado of a writ in a libel suit upon the consul general of Italy at Denver within the premises of his office, I have the honor to transmit herewith copy of a letter on the subject which has been received from the governor of the State named. It appears from this communication that the present proceedings against the consul general are based upon a summons claimed to have been properly served without the consulate general, and not upon the original illegal summons.

It would seem that the question involved is a judicial one, over which the State courts have concurrent jurisdiction with the Federal courts, under the authority of the act of February 18, 1875. Should the consul general deem himself deprived of a right or privilege under a law of the United States or a treaty, he may, under the Revised Statutes, section 709, have the final judgment or decree of a State court reexamined, reversed, or affirmed in the Supreme Court of the United States upon a writ of error.

In view of all the circumstances the department ventures to suggest that if the consul general wishes at some later stage of the proceedings to avail himself of the alleged lack of jurisdiction of the State court in which the action was begun, he make an appearance by counsel and enter a plea to the jurisdiction.

Accept, etc.,

P. C. KNOX.

¹ Not printed.

[Inclosure.]

The Governor of Colorado to the Secretary of State.

[Extract.]

EXECUTIVE CHAMBER,
Denver, January 5, 1910.

DEAR SIR: It appears from the papers in the case that an action by Pasquale Corte against Adolphe Rossi for libel was begun in the district court of the city and county of Denver on November 1, 1909. Summons was issued on the same day and served by a deputy sheriff upon Mr. Rossi, by delivering to him a copy of the complaint and summons at the consulate in the city of Denver. Mr. Rossi protested to me against the service and wrote me letters, copies of which I inclosed to you in a former communication. On November 9 I wrote to Judge Shattuck, and Judge Shattuck wrote to me, copies of letters which I also inclosed in my communication to you.

It seems that the service of the summons was regarded by the courts as illegal, and no further action upon that service was had. On the 4th day of November an alias summons was issued in said cause, and on the 15th day of November service was had upon Mr. Rossi in the manner following (I quote the return of the party serving the summons):

STATE OF COLORADO,
City and County of Denver, ss:

A. H. Rogers, being first duly sworn, on his oath deposes and says that he is above the age of 21 and is not interested in the within action in any manner; that he duly executed the within alias summons on the 15th day of November, A. D. 1909, by delivering a true copy thereof to the within named defendant, Adolph Rossi, within the city and county of Denver and State of Colorado, in the manner following, to wit: Affiant met the said Rossi on a public street in the said city and county of Denver and exhibited to the said Rossi the said alias summons, and tendered the same to the said Rossi and offered to deliver the same to him, saying at the time of said tender, "Mr. Rossi, I have here an alias summons for you issued out of the district court of the city and county of Denver, State of Colorado"; that the said Rossi thereupon shook his head and said "No, no." Affiant then said to the said Rossi, "You understand that if you refuse this you are served just the same." To which the said Rossi replied "No, no; you tried that once." Thereupon the said Rossi passed on, refusing to accept the said copy of the said alias summons or to take the same into his possession though fully informed as to what the said instrument was.

A. H. ROGERS.

Subscribed and sworn to before me this 17th day of November, A. D. 1909.
My commission expires January 14, 1913.

(Signed) ARLIE M. DOYLE, Notary Public.

It appears that the complainant, with his witnesses, January 4, appeared in the district court of the city and county of Denver, before Judge Shattuck and demanded a default and presented his testimony. The papers this morning indicated that Judge Shattuck has entered a judgment for \$10,000, but Judge Shattuck assures me that no judgment has been entered as yet.

The attorney general looked up the matter before, and when I called his attention to your telegram he referred to the authorities which he had examined and wishes to cite. He holds under his authorities that the State court has jurisdiction, provided the service of the summons is made at a place other than the consulate. (See *Wilcox v. Luco*, 118 California, p. 639; *De Give v. Grand Rapids Furniture Company*, 94 Georgia, p. 605; *Bors v. Preston*, 111 U. S., p. 252; *In re Iasigi*, 79 Federal, p. 751; 54 Southwestern, Tex., p. 636; 5 Moore International Law, p. 77.)

The attorney general holds that the State court has jurisdiction with the right of removal upon the part of the consul to the United States court, which he failed to petition for.

Yours,

JOHN F. SHAFROTH.

File No. 22205.

The Secretary of State to Ambassador Leishman.

No. 58.]

DEPARTMENT OF STATE,
Washington, January 31, 1910.

SIR: For your information, in case the Italian foreign office should be misled as to the actual attitude of the State of Colorado and the Federal Government in the libel suit brought by Mr. Pasquale Corte against Mr. Adolphe Rossi, Italian consul general at Denver, the

department transmits herewith copy of a memorandum which has been prepared by the solicitor, stating the facts as they appear from the department's records.

I am, etc.,

(For Mr. Knox.)

ALVEY A. ADEE.

[Inclosure.

DEPARTMENT OF STATE,
Washington, January 27, 1910.

In re case of Pasqualle Corte v. Adolphe Rossi.—Under date of November 4, 1909, the Italian Embassy called the department's attention to an alleged violation of article 6 of the consular convention of 1878, by reason of the service upon Consul General Rossi within the Italian consulate general at Denver, Colo., of a summons in an action for libel instituted against the Italian consul general by Mr. Pasqualle Corte, former consul of Italy at Denver.

On January 5, 1910, the governor of Colorado, with whom the department communicated, immediately upon receipt of the Italian ambassador's complaint, informed the department that the service of the summons within the consulate general was considered illegal by the court, but that an alias summons was issued on November 4, and service had on Mr. Rossi on November 15 while the Consul General was passing along a public street in the city of Denver, and that the plaintiff thereafter appeared in the district court of the city and county of Denver and demanded a default and presented his testimony. It appears that Mr. Rossi refused to make an appearance in the case, claiming exemption from suit under the treaty of 1878.

The Italian ambassador in a note to the Secretary of State, dated January 4, states that a judgment by default for \$10,000 has been entered against Mr. Rossi, "with execution of the judgment on his person if the penalty is not paid." To this the Italian Embassy objected on the ground that it was a violation of Article III, section 2, of the Constitution of the United States. On January 13 the department, in transmitting to the Italian Embassy a copy of the communication received by the department from the governor of Colorado, heretofore referred to, said:

It would seem that the question involved is a judicial one, over which the State courts have concurrent jurisdiction with the Federal courts, under the authority of the act of February 18, 1875. Should the consul general deem himself deprived of a right or privilege under a law of the United States or a treaty, he may, under the Revised Statutes, section 709, have the final judgment or decree of a State court reexamined, reversed, or affirmed in the Supreme Court of the United States upon a writ of error.

In view of all the circumstances the department ventures to suggest that if the consul general wishes at some later stage of the proceedings to avail himself of the alleged lack of jurisdiction of the State court in which the action was begun, he make an appearance by counsel and enter a plea to the jurisdiction.

On January 16 the Italian ambassador telegraphed the Secretary of State that Mr. Rossi seemed to be threatened with arrest, and complained that such action on the part of the State authorities would be a new violation of treaty rights. However, on the 17th instant, the secretary to the governor of Colorado, in the absence of the executive, advised the department that "after investigation find no foundation of threatened arrest of Italian consul general at Denver," which information was immediately communicated to the Italian Embassy.

Upon full consideration the attitude of the department is that a consular officer, unless exempt by treaty, is subject to suit in courts of the United States, and that there is no treaty provision exempting an Italian consular officer from suit in an appropriate case; that, although the Supreme Court of the United States has original, if does not possess exclusive jurisdiction, and that the district and circuit courts of the United States are competent to entertain and decide causes of action against consuls; and that since 1875 State as well as Federal courts may take and exercise jurisdiction in consular cases.

As the question involved in the litigation between Mr. Corte and the Italian consul general at Denver is judicial in its nature, and, finally, as the Italian consul general can preserve his rights by a plea to the jurisdiction and thus have his case either removed by the Federal courts or passed upon in ultimate resort by the Supreme Court of the United States, the United States Government is precluded from intervening in the proceedings, as requested by the Italian Embassy.

File No. 2464/9.

FUNCTIONS OF CONSULAR OFFICERS CONCERNING WILLS.

The Italian Chargé to the Secretary of State.

[Translation.]

No. 979.]

ITALIAN EMBASSY,
Manchester, Mass., June 18, 1910.

MR. SECRETARY OF STATE: I have the honor to have recourse to your excellency's tried courtesy and to ask that you will, if possible, send me a copy of the provisions concerning the functions assigned to consuls of the United States in the making, writing, and receiving of wills. The information is desired by the royal minister of justice and pardons.

While thanking your excellency in advance for all you may be pleased to do in compliance with this request, I renew, etc.

MONTAGLIARI.

File No. 2464/9.

The Acting Secretary of State to the Italian Chargé.

No. 865.]

DEPARTMENT OF STATE,
Washington, July 2, 1910.

SIR: I have the honor to acknowledge the receipt of your note of June 18 inquiring in regard to the provisions concerning the functions assigned to American consuls in the making, writing, and receiving of wills.

In reply I have the honor to state that it is no part of a consul's duty to take any action either in drawing wills or accepting them for deposit, although in some instances they are permitted by treaty to draw up testamentary dispositions. Their general instructions require them to decline to perform these as well as all other legal services except in cases where no lawyer is available and where delay would work hardship upon any American citizen. Even in such cases they are required to inform the interested person that the services are performed at the applicant's risk and that the Government of the United States can not be held responsible therefor. They are also prohibited by law from performing any legal services in their private capacity for compensation.

Accept, etc.,

HUNTINGTON WILSON.

JAPAN.

ADMINISTRATION OF AFFAIRS IN KOREA.

Ambassador O'Brien to the Secretary of State.

No. 1191.]

AMERICAN EMBASSY,
Tokyo, Japan, July 13, 1910.

SIR: I have the honor to inclose herewith a translation of a memorandum exchanged on June 24 last between Resident General Terauchi and Acting Prime Minister Pak Che Soon by which the Government of Korea intrusts its police affairs to the Government of Japan. The only exception to the complete operation of this provision is the policing of the Korean Imperial Palace, which will be managed, when necessary, by the minister of the imperial household in consultation with the Japanese officials concerned.

Heretofore police functions in Korea have been discharged by four distinct organizations—the Japanese police, having jurisdiction over Japanese in the open ports, and the judicial police, attached to the new Japanese courts, both subject to the residency general, as well as the Korean police and the Japanese gendarmerie employed to police Korean subjects and controlled respectively by the Korean Government and the Japanese War Department.

Under the new arrangement—the regulations relating to which are inclosed herewith—these heterogeneous organizations are abolished and a single police department subject to the residency general is organized, with the Japanese gendarmerie as a nucleus. In fact, while Korean and Japanese civilians possessing certain qualifications will be employed, the larger part of the force will consist of the Japanese gendarmerie. For this purpose the present seven gendarmerie districts in Korea will be increased to 13, and the necessary officers and men will be recruited from the reserves of the regular army.

In the reorganized system there will be an inspectorate general of police at Seoul, which will take charge of police affairs throughout Korea, subject to the control of the resident general. The position of inspector general will be held by the commander in chief of the gendarmerie. Subject to him there will be 13 provincial police headquarters and 70 police stations. The chiefs of provincial headquarters will consist of field officers of gendarmerie. The chiefs of police stations will be inspectors or sergeants, who will be appointed from Korean and Japanese civilians and from commissioned officers of gendarmerie. There will also be in the inspectorate general at Seoul two police commissioners, who may be chosen from either Japanese or Koreans.

The vernacular press generally approves the new arrangement and believes that it should have been put into effect long ago. While some of the newspapers consider the plan of employing gendarmerie

for police as appropriate on account of the great prevalence of lawless Koreans, others fear that their semimilitary character will tend to make them overbearing toward peaceable Koreans. It is also thought by some that the principal object of reorganizing the police at this time is to be fully prepared for emergencies in connection with the approaching annexation.

The negotiation of the police memorandum is the first important official act of Gen. Terauchi since his assumption of the resident generalship and another step in the now almost completed transfer to Japan of all real governmental powers in Korea. Japan at present has direct control of foreign, military, railway, post and telegraph, judicial, prison and police affairs, while the Korean Government must obtain the preliminary approval of the resident general in all matters relating to the enactment of laws and in all important matters of administration (Japan-Korea agreement of July, 1907).¹

I have, etc.

T. J. O'BRIEN.

[Inclosure No 1.—Translation.]

[Official Gazette, June 30, 1910.]

JAPANESE-KOREAN MEMORANDUM.

The Governments of Japan and Korea, with a view of completing the improvement of the Korean police system and to strengthening the foundation of Korea's finances, have agreed upon the following stipulations:

ARTICLE I. Until such time as the police system of Korea is considered to be complete, the Government of Korea shall intrust its police affairs to the Government of Japan.

ART. II. With regard to the police affairs of the Korean imperial palace, the minister of the imperial household shall, when necessary, manage them by consulting the official concerned.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed, sealed, and exchanged the present memorandum, drawn up in duplicate, both in the Japanese and in the Korean languages.

VISCOUNT MASATAKE TERAUCHI,
Resident General.

Twenty-fourth day of the six month of the forty-third year of Meiji (June 24, 1910).

PAK CHE SOON,
Acting Prime Minister, Minister of the Interior.

Twenty-fourth day of the sixth month of the fourth year of Lyung Heni.

[Inclosure No. 2.—Translation.]

[Official Gazette, June 30, 1910.]

We hereby sanction and cause to be promulgated the regulations relating to the organization of the police offices of the residency general.

JUNE 29, 1910.

(Countersigned.) MARQUIS TARO KATSURA,
Prime Minister.

(Countersigned.) VISCOUNT MASATAKE TERAUCHI,
Minister of War,

SIGN MANUAL.
PRIVY SEAL.

¹ See Foreign Relations, 1907, p. 773.

IMPERIAL ORDINANCE NO. 286.

Regulations relating to the organization of the police offices of the residency general.

ARTICLE I. The police offices of the residency general shall, subject to the control of the resident general, take charge of police affairs in Korea.

ART. II. The police offices of the residency general shall consist of the inspectorate general of police, provincial headquarters of police, and police stations.

ART. III. The inspectorate general of police shall be established in Seoul and shall have general control over police affairs in Korea. It shall also take charge of police affairs in the imperial palace in the city of Seoul.

ART. IV. The locations and spheres of jurisdiction of the provincial headquarters of police and police stations shall be determined by the resident general.

ART. V. The police offices of the residency general shall have the following personnel:

One inspector general of police, Chokunin rank.

Two police commissioners, Sonin rank (one may be of Chokunin rank).

Chiefs of provincial headquarters of police,¹ Sonin rank.

Fifty-two police inspectors, Sonin rank.

Chiefs of police stations.¹

Three interpreters, Sonin rank.

One expert.

Sixty-eight police surgeons, Sonin or Hannin rank.

Three hundred and fifty-seven clerks, police sergeants, assistant experts, student interpreters—Hannin rank.

ART. VI. The inspector general of police shall be the general in command of the gendarmes stationed in Korea.

The inspector general of police, as chief of the inspectorate general of police, shall have general control over the business of the inspectorate under the instruction of the resident general, and shall direct and supervise the staffs of the police offices.

ART. VII. The police commissioners shall take charge of the business of the inspectorate under the instruction of their superiors.

ART. VIII. The chiefs of provincial headquarters of police shall be the field officers of gendarmerie in command of the gendarmes in the various Provinces. They shall, under the instruction of the inspector general of police, manage the business of their respective headquarters, and shall direct and supervise the staffs of their respective headquarters as well as those of the police stations within their respective jurisdictions.

ART. IX. The inspector general of police and the chiefs of provincial headquarters of police may issue of their own motion, or by authorization, orders valid respectively in Seoul and within the latter's spheres of jurisdiction.

ART. X. The chiefs of police stations shall be either police inspectors or police sergeants. Under the instruction of their superiors they shall manage the business of their respective stations, and shall direct and supervise their respective staffs.

ART. XI. The police inspectors shall, under the instruction of their superiors, take charge of police affairs, and shall direct and supervise those subordinate to them.

ART. XII. The interpreters shall take charge of translation and interpretation under the instruction of their superiors.

ART. XIII. The expert shall take charge of technical matters under the instruction of his superiors.

ART. XIV. The police surgeons shall, under the instruction of their superiors, take charge of medical affairs connected with the police.

ART. XV. The clerks shall engage in miscellaneous business under the direction of their superiors.

The police sergeants shall, under the direction of their superiors, engage in police affairs, and shall direct and supervise those subordinate to them.

The assistant experts shall engage in technical matters under the direction of their superiors.

The student interpreters shall engage in translation and interpretation under the direction of their superiors.

ART. XVI. The police offices shall have policemen and assistant policemen. Policemen shall be accorded the treatment due to Hannin officials, and the treatment of assistant policemen shall follow that accorded to assistant gendarmes.

The regulations relating to policemen and assistant policemen shall be determined by the resident general.

Supplementary clauses.—This ordinance shall take effect on July 1, 1910.

¹ TRANSLATOR'S NOTE.—Number to be determined later.

The regulations relating to the organization of judicial police of the residency general are hereby revoked.

Those who actually hold the positions of police inspector or police sergeants of the resident general at the time of operation of this ordinance shall be regarded as having been appointed police inspectors or police sergeants of the residency general with the same official ranks and salaries.

[Translation.]

[Official Gazette, June 29, 1910.]

We hereby sanction and cause to be promulgated the regulations relating to the appointment, standing, and pay of Korean subjects constituting the staffs of the police offices of the residency general, regarding which the privy council has been consulted.

SIGN MANUAL.
PRIVY SEAL.

JUNE 29, 1910.

(Countersigned.) MARQUIS TARO KATSURA,
Prime Minister.

IMPERIAL ORDINANCE NO. 303.

ARTICLE I. Korean subjects coming under the following categories may, upon examination by the board of examiners for the higher civil service, be specially appointed as police commissioners or police inspectors of the residency general:

1. Those who have taken law courses for three years or more at any imperial university, special school (Semmon Gakko), or Korean Government school.
2. Those who have been in the Korean police service for five years or more and are actually holding positions with salary of the fifth grade or more for Hannin officials of Korea.

ART. II. Korean subjects who are qualified to be general civil-service officials of the Hannin rank in accordance with the legal provisions of Korea may, upon examination by the board of examiners for the ordinary civil service, be specially appointed as clerks or police sergeants of the police offices of the residency general.

ART. III. The ordinance relating to the standing of civil officials shall not apply to officials who are Korean subjects.

ART. IV. The pay for officials who are Korean subjects shall follow the accompanying list, and their official rank shall follow those of Japanese subjects.

ART. V. The provisions relating to traveling expenses for officials who are Korean subjects shall be determined by the residency general.

Supplementary clauses. This ordinance shall take effect on July 1, 1910.

Korean subjects in the Korean police service at the time of operation of this ordinance may specially be appointed as police commissioners of the residency general in case of deputy inspectors general of police, as police inspectors of the residency general in case of police inspectors, and as police sergeants of the residency general in case of police sergeants.

In the cases mentioned in the preceding paragraph the provisions of article 4 of the ordinance relating to the official ranks and salaries of higher officials need not be followed.

Annual salaries of higher officials.

	Yen.
Grade 1.....	1,800
Grade 2.....	1,600
Grade 3.....	1,400
Grade 4.....	1,200
Grade 5.....	1,000
Grade 6.....	900
Grade 7.....	800
Grade 8.....	700
Grade 9.....	600
Grade 10.....	500

Monthly salaries of Hannin officials.

	Yen.
Grade 1.....	50
Grade 2.....	45
Grade 3.....	40
Grade 4.....	35
Grade 5.....	30
Grade 6.....	25
Grade 7.....	20
Grade 8.....	15
Grade 9.....	12
Grade 10.....	10

The Japanese Ambassador to the Acting Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, August 24, 1910.

SIR: Under instructions of my Government I have the honor to make to you the following communication on the subject of the protection in Korea of inventions, designs, trade-marks, and copyrights:

The Imperial Government, in addition to the announcement which they have made respecting the annexation of Korea and the treatment which, in view of the new condition of things, is hereafter to be accorded in Korea to the subjects and citizens of foreign powers and to their commerce and navigation, have the honor to acquaint the United States Government that, in consequence of such annexation, the laws of Japan concerning inventions, designs, trade-marks, and copyrights are extended to Korea in place of the laws hitherto in force in Korea on the same subjects, and that the special office established in Korea to deal with such industrial and literary properties is abolished and the duties heretofore performed by it are, in the future, to be undertaken by the appropriate governmental bureau in Tokyo. As a result of these measures, a single registration in Tokyo and the payment of a single fee will hereafter be sufficient to secure due protection in Korea as well as in Japan proper. It is only necessary to add that rights now existing in Korea in virtue of registrations already effected or applications already deposited in pursuance of the convention between Japan and the United States, dated May 19, 1908, will continue to be duly respected in Korea.

Accept, etc.,

Y. UCHIDA.

The Japanese Ambassador to the Acting Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, August 24, 1910.

SIR: Under instructions of my Government I have the honor to communicate to you herewith a copy of the English translation of the treaty annexing Korea to the Empire of Japan, which was signed on the 22d instant by Viscount Terauchi, Japanese resident general in Korea, and Mr. Ye Wan Yong, Korean minister president of state, together with a declaration of my Government on matters relating to foreigners and foreign trade in Korea.

Accept, etc.,

Y. UCHIDA.

[Inclosure 1.]

DECLARATION OF JAPANESE GOVERNMENT.

Notwithstanding the earnest and laborious work of reforms in the administration of Korea, in which the Governments of Japan and Korea have been engaged for more than four years since the conclusion of the agreement of 1905, the existing system of government in that country has not proved entirely equal to the duty of preserving public order and tranquillity, and, in addition, the spirit of suspicion and misgiving dominates the whole peninsula. In order to maintain peace and stability in Korea, to promote the prosperity and welfare of the Koreans, and at the same time to insure the safety and repose of the foreign residents, it has been made abundantly clear that fundamental changes in the actual régime of government are absolutely essential. The Governments of Japan and Korea, being convinced of the urgent necessity of introducing reforms responsive to the requirements of the situation and of furnishing sufficient guaranty for the future, have, with the approval of His Majesty the Emperor of Japan and His Majesty the Emperor of Korea, concluded through their respective plenipotentiaries a treaty providing for the complete annexation of Korea to the

Empire of Japan. By virtue of that important act, which shall take effect on its promulgation on the 29th of August, 1910, the Imperial Government of Japan undertake the entire government and administration of Korea and they hereby declare that matters relating to foreigners and foreign trade in Korea shall be conducted in accordance with the following rules:

1. Treaties hitherto concluded by Korea with foreign powers ceasing to be operative, Japan's existing treaties will, so far as practicable, be applied to Korea. Foreigners resident in Korea will, so far as conditions permit, enjoy the same rights and immunities as in Japan proper, and the protection of their legally acquired rights, subject in all cases to the jurisdiction of Japan. The Imperial Government of Japan are ready to consent that the jurisdiction in respect of cases actually pending in any foreign consular courts in Korea at the time the treaty of annexation takes effect shall remain in such courts until final decision.

2. Independently of any conventional engagements formerly existing on the subject, the Imperial Government of Japan will for a period of 10 years levy upon goods imported into Korea from foreign countries or exported from Korea to foreign countries and upon foreign vessels entering any of the open ports of Korea the same import or export duties and the same tonnage dues as under the existing schedules. The same import or export duties and tonnage dues as those to be levied upon the aforesaid goods and vessels will also for a period of 10 years be applied in respect of goods imported into Korea from Japan or exported from Korea to Japan and Japanese vessels entering any of the open ports of Korea.

3. The Imperial Government of Japan will also permit, for a period of 10 years, vessels under the flag of powers having treaties with Japan to engage in the coasting trade between the open ports of Korea and between those ports and any open ports of Japan.

4. The existing open ports of Korea, with the exemption of Masampo, will be continued as open ports, and in addition Shinwiju will be newly opened, so that vessels foreign as well as Japanese will there be admitted and goods may be imported into and exported from those ports.

[Inclosure 2.]

TREATY BETWEEN JAPAN AND KOREA, SIGNED ON THE 22D OF AUGUST, 1910.

His Majesty the Emperor of Japan and His Majesty the Emperor of Korea, having in view the special and close relations between their respective countries, desiring to promote the common weal of the two nations and to assure the permanent peace in the extreme East, and being convinced that these objects can be best attained by the annexation of Korea to the Empire of Japan, have resolved to conclude a treaty of such annexation, and have for that purpose appointed as their plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Viscount Masakata Terauchi, his resident general, and His Majesty the Emperor of Korea, Ye Wan Yong, his minister president of state;

Who, upon mutual conference and deliberation, have agreed to the following articles:

ARTICLE I. His Majesty the Emperor of Korea makes the complete and permanent cession to His Majesty the Emperor of Japan of all rights of sovereignty over the whole of Korea.

ART. II. His Majesty the Emperor of Japan accepts the cession mentioned in the preceding article and consents to the complete annexation of Korea to the Empire of Japan.

ART. III. His Majesty the Emperor of Japan will accord to Their Majesties the Emperor and ex-Emperor and His Imperial Highness the Crown Prince of Korea and their consorts and heirs such titles, dignity, and honor as are appropriate to their respective ranks, and sufficient annual grants will be made for the maintenance of such titles, dignity, and honor.

ART. IV. His Majesty the Emperor of Japan will also accord appropriate honor and treatment to the members of the imperial house of Korea and their heirs other than those mentioned in the preceding article, and the funds necessary for the maintenance of such honor and treatment will be granted.

ART. V. His Majesty the Emperor of Japan will confer peerage and monetary grants upon those Koreans who on account of meritorious services are regarded as deserving such special recognitions.

ART. VI. In consequence of the aforesaid annexation, the Government of Japan assume the entire government and administration of Korea, and undertake to afford full protection for the persons and property of Koreans obeying the laws there in force, and to promote the welfare of all such Koreans.

ART. VII. The Government of Japan will, so far as circumstances permit, employ in the public service of Japan in Korea those Koreans who accept the new régime loyally and in good faith, and who are duly qualified for such service.

ART. VIII. This treaty having been approved by His Majesty the Emperor of Japan and His Majesty the Emperor of Korea shall take effect from the date of its promulgation.

In faith whereof, etc.

Ambassador O'Brien to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Tokyo, August 25, 1910.

Mr. O'Brien reports that an official note from the minister for foreign affairs which he has just received incloses the text of the treaty with Korea, already given him informally, and says the treaty comes in force August 29, the date of its promulgation. Mr. O'Brien adds that the note states that—

In view of the treaty relations actually subsisting between the United States and Korea I have the honor to convey the above to your excellency's knowledge before the promulgation and coming into force of the said treaty.

The Acting Secretary of State to the Japanese Ambassador.

DEPARTMENT OF STATE,
Washington, September 17, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of August 24 last on the subject of the treaty annexing Korea to the Empire of Japan, signed on the 22d ultimo.

While I am constrained by the great importance of the interests of American citizens in Korea to make all necessary reservations as to their rights and privileges, I beg to inform your excellency that the Government of the United States is gratified to note the assurances already given by the Imperial Japanese Government concerning matters relating to foreigners and foreign trade in Korea.

Accept, etc.,

HUNTINGTON WILSON.

File No. 895.00/496.

Ambassador O'Brien to the Secretary of State.

No. 1228.]

AMERICAN EMBASSY,
Tokyo, September 19, 1910.

SIR: Referring to the embassy's dispatch No. 1215 of August 24 last,¹ relative to the annexation of Korea, transmitting copies of certain imperial ordinances issued in connection therewith, I have the honor to inclose herewith translations of two additional ordinances, Nos. 318 and 319, which have since been promulgated.

¹ Not printed

Ordinance No. 318 provides that the name "Kankoku" (Korea) shall be altered to "Chosen" (Morning Calm). The former has heretofore been the official designation, although both names have been used interchangeably in ordinary parlance. The reason for the selection of "Chosen" as the official name of the annexed territory is that it does not contain, as does "Kankoku," any verbal root signifying "nation" (koku) and implying an independent national existence.

Ordinance No. 319 establishes a government general in Chosen. Under its provisions the resident general will temporarily discharge the functions of governor general. The offices of the residency general will remain as they are for the time being, and (with the exception of the cabinet and the board of decorations) the offices which have heretofore been subject to the Korean Government will be subject to the government general of Chosen. Officials serving in the latter offices will continue to receive the same treatment as previously accorded them by the Korean Government.

The foregoing ordinance is only provisional, and will soon be superseded by others creating a comprehensive scheme of government. The drafts of the new ordinances were brought to Tokyo by Vice Resident General Yamagata on the 14th instant, at present being in the hands of the colonial bureau, and will be submitted to the deliberations of the privy council within a few days.

I have, etc.,

T. J. O'BRIEN.

[Inclosure—Translation.]

OFFICIAL GAZETTE, August 29, 1910.

We hereby sanction and cause to be promulgated the ordinance relating to the alteration of the name "Kankoku" (Korea) to "Chosen."

SIGN MANUAL.
PRIVY SEAL.

AUGUST 29, 1910.
(Countersigned)

MARQUIS TARO KATSURA, *Prime Minister.*

Imperial ordinance No. 318.—The name "Kankoku" is hereby changed, and the country shall henceforth be called "Chosen."

Supplementary clause.—This ordinance shall take effect on the day of promulgation.

[Translation.]

OFFICIAL GAZETTE, August 29, 1910.

We hereby sanction and cause to be promulgated the ordinance relating to the establishment of the government general of Chosen, regarding which the privy council has been consulted.

SIGN MANUAL.
PRIVY SEAL.

AUGUST 29, 1910.
(Countersigned)

MARQUIS TARO KATSURA, *Prime Minister.*

Imperial ordinance No. 319.—There shall be established in Chosen the government general of Chosen.

In the government general of Chosen there shall be a governor general who shall, within the scope of the powers invested in him, command the army and navy and exercise general control over all Government affairs.

The residency general and the Government offices subject thereto shall remain as they are for the time being, and the functions of governor general of Chosen shall be discharged by the resident general.

The Government offices which have heretofore been subject to the Korean Government shall, with the exception of the cabinet and the board of decorations, be regarded as Government offices, subject to the government general of Chosen, and shall remain as they are for the time being.

The officials serving in the Government offices mentioned in the preceding paragraph shall be accorded treatment similar to that which was accorded them during their service under the former Korean Government. Shinnin officials, according to the former Korean laws, shall be treated as shinnin officials; chokunin officials, as chokunin officials; sonin officials, as sonin officials; and hannin officials, as hannin officials.¹

Those who have been employed by the Korean Government, retaining their regular positions (in Japan), shall be subject to imperial ordinance No. 195 of 1904.²

Supplementary clause.—This ordinance shall take effect on the day of promulgation.

¹ Shinnin, personally appointed by the Emperor; chokunin, appointed by the Emperor; sonin, appointed by the cabinet with the approval of the Emperor; hannin, appointed by a chief of department.

² Ordinance No. 195 provides that, when a Government official has been engaged by a foreign Government without resigning his regular position in Japan be allowed to retain his position, an additional position being created for the substitute acting in his absence, but he shall not be entitled to the salary or traveling expenses pertaining thereto.

KONGO.

AFFAIRS IN THE KONGO.

[Continued from Foreign Relations, 1909, p. 400.]

File No. 1806/668.

Minister Bryan to the Secretary of State.

No. 15.]

AMERICAN LEGATION,
Brussels, March 18, 1910.

SIR: Concerning the Kongo and the affairs at this capital affecting the former Free State I have the honor to report that the optimistic views expressed in his dispatches on this subject by my predecessor, Mr. Wilson, seem fully justified. There evidently prevails throughout Belgium universal and determined public opinion set on ameliorating the conditions which have existed in the African domain. The recent visit of King Albert and of Mr. Rankin, minister of the colonies, to Africa have so thoroughly familiarized the Sovereign and his able adviser with the needs of the Kongo that they are competent to intelligently follow their policy of reform and to fulfill the pledges made to the people. Just now, however, danger for the realization of these plans lies in their multiplicity. There is perhaps a little overzeal, and the desire to accomplish too much at once may retard rather than advance the general program. All sorts of measures are proposed for the development of the Kongo. The following is an outline of the program of the Belgian Government in this respect:

COMMERCIAL REGULATIONS.

I. To entirely throw open to trade in July, 1910, about one-half of the Kongo, and the remainder of the territory in the months of July of 1911 and 1912.

II. To grant the natives in districts thus opened to trade the right and liberty to gather and sell to merchants the products of the soil just as though these products virtually belonged to them.

III. To encourage trade by reducing charges on commercial enterprises and by facilitating the purchase by the latter of lands in the Kongo.

IV. To establish new navigation companies on the principal waterways.

V. To introduce—for which provision is made in the present budget—money into the Kongo.

VI. To grant to officials subsistence allowances in place of the former payment in kind, thereby compelling them to purchase what they need instead of having to levy taxation.

TAXES ON NATIVES.

VII. On July 12 throughout the Kongo the taxes in labor are to be suppressed.

VIII. After July 12 taxes per head are to be revised.

IX. All those now subjected to the *corvée*—forced labor on public works—shall have to complete their term of service, but in order to eventually suppress this forced labor their places will be taken, as their terms expire, by hands voluntarily engaged.

This new system is said to be already in vigor in the first section of the Great Lakes Railway of the Belgian Government. In a recent speech in the British Parliament, Sir E. Grey, minister for foreign affairs, commenting upon this program, stated that it does not apply to the concessions areas. The Belgian Government takes the stand that the concessionary companies have no right to forced labor and are examining what arrangements can be made to introduce this reform into the administration of these companies.

King Albert is studious, careful, and conscientious. His ambition is to build on the foundation laid by his predecessor a colonial edifice which will remain as a lasting monument to his statecraft and philanthropy. If he has the patience and the masterful strong will of his uncle, the great King Carol, of Roumania, whom he resembles, Kongo will be wrested from savagery and become an empire such as England has founded on every continent and as Holland and Portugal possessed when their navies ruled the seas. The colonial minister of Belgium is an earnest man of such value that he has captured the respect of the radical opponents of the present Government. The latter's majority in the chamber of representatives having gradually dwindled from 60 to 4, it is of vital moment that the new colonial policy be promptly carried out. Otherwise the radicals will gain enough seats in the spring elections to upset the present ministry of the conservative or "Catholic" party, which has been in power for 28 years.

I hope in a few days to furnish the department with a more definite and detailed account of the laws enacted and of the status of proposed legislation affecting the Kongo. The sessions of the colonial council, which decides all questions relating to the Belgian provincial possessions, sits with closed doors. Merely a meager résumé of its proceeding is issued for publication. There are, however, legitimate means, of which I intend to avail myself, of obtaining exact information concerning the deliberations of this body and its decisions, so vitally interesting to all who look to the Kongo as a future field of business activities.

I have, etc.,

CHARLES PAGE BRYAN.

File No. 855a.00/670.

Minister Bryan to the Secretary of State.

No. 23.]

AMERICAN LEGATION,
Brussels, April 1, 1910.

SIR: Referring to my No. 15 of March 18, in relation to law as affecting the Kongo, I have the honor to report that the following decrees, under date of March 22, 1910, have been issued:

I. *Withdrawal of the Katanga executive grant.*—This executive grant was accorded to the special committee of the Katanga by the decree of December 6, 1900. It will be canceled September 1, 1910. The new decree is based on article 22 of the charter, naming January 1, 1912, as the latest date for the withdrawal of the grant. As announced, however, on several occasions, the Government does not intend to wait until this date and will immediately proceed to reorganize the administration of the Katanga.

II. *Facilitating of free trade.*—(a) To entirely throw open to trade in July, 1910, about one-half of the Kongo, and the remainder of the territory in the months of July

of 1911 and 1912. (The official map of these regions is announced for publication shortly.)

(b) After a date to be eventually determined upon anyone (natives included) paying the license tax or occupying an establishment subjected to the three rates of personal taxation shall be permitted to harvest or to have harvested vegetables products on Government land. The only condition shall be the possession of a permit gratuitous in principle. For the harvesting of rubber and copal a special permit will be required, its delivery being subjected to a tax of 250 francs. Of natives who do not export directly the harvested products such a permit will not be required. They shall be entitled to harvest and sell the products, either to one another or to the factories established in the colony.

III. *Revision of the fiscal rubber régime.*—The so-called supplementary tax now levied on exportation, the license, and domanial taxes are to be abolished. A single tax is substituted, amounting to 75 centimes per kilogram of rubber extracted from trees or plants and 50 centimes per kilogram of rubber extracted from herbs. The present tax is thus to be increased by 50 centimes on rubber from trees and plants, which is at present subjected only to the supplementary tax, and increased by 25 centimes on rubber paying at present both the domanial and the supplementary taxes.

IV. All nonnatives intending to remain on the territory of the Belgian Kongo for a period exceeding 15 days shall be required to register within six days of the date of their entry and to see to the registration of all members of their family or of their party who are nonnatives. The competent authorities shall be notified within eight days of all changes of residence of nonnatives.

V. The territory of the Belgian Kongo is divided into the 12 following districts:

1. Lower Kongo; capital, Boma.
2. Middle Kongo; capital, Leopoldville.
3. Lake Leopold II; capital, Inongo.
4. Equator; capital, Coquilhatville.
5. Bangala; capital, New Antwerp.
6. Ubangi; capital, Libenge.
7. Uele; capital, Niangara.
8. Aruwimi; capital, Basoko.
9. Stanleyville; capital, Stanleyville.
10. Katanga; capital, Kambove.
11. Kasai; capital, Lusambo.
12. Kwango; capital, Popokabaka.

Besides the aforementioned decrees another of March 22 1910, provides for the payment of license taxes by any persons having no permanent establishment in the Kongo and thereby not paying the personal tax. In order to be admitted to trade in the Kongo such persons have to be furnished with a license costing—1, 500 francs, if the trade includes the purchase or the sale of rubber, copal, or ivory, 2, 500 francs, if the trade includes the sale, on board of ships at anchor in the Lower Kongo, of other merchandise than mouth provisions; 3, 200 francs in all other cases.

This decree is probably aimed at peddlers from the neighboring German, English, and Portuguese colonies and can not, I think, affect traveling salesmen from our own and neighboring countries.

I have, etc.,

CHARLES PAGE BRYAN.

File No. 1806/670.

The Secretary of State to Minister Bryan.

No. 25.]

DEPARTMENT OF STATE,
Washington, April 26, 1910.

SIR: The department has received your dispatch No. 23 of the 1st instant, reporting the situation in the Kongo, and in reply informs you that the attitude of this Government is one of inaction, but benevolent expectancy toward the contemplated reforms.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

File No. 85a.00.

Minister Bryan to the Secretary of State.

No. 38.]

AMERICAN LEGATION,
Brussels, May 5, 1910.

SIR: I have the honor to transmit herein a copy and translation of the addresses delivered by Mr. Renkin, minister of the colonies, and by King Albert on the occasion of the opening of the Kongo Museum, at Tervueren last Saturday.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure 1—Translation.]

SPEECH OF MR. RENKIN, MINISTER FOR THE COLONIES.

SIRE: I have the honor to welcome Your Majesty on behalf of the Government. I thank him for the splendor which his august presence lends to this solemn inauguration.

The universal exposition of 1910 offered Belgium the opportunity of showing the place which the colony of Belgian Kongo has already taken in our national life. This museum, the pavilions and the halls of the colonial exposition of the Kongo surrounding it, will make the visitor appreciate the fine efforts realized by our compatriots in Africa.

The missionaries will present the record of their admirable apostleship. The scientific and political results due to the persevering energy of our officers and of our administrations, the economical results obtained by the initiative and courage of our industrial and commercial representatives will be adequately displayed. Here shall also be exhibited the first steamboats cast upon the High River, the locomotives and the trains which, after climbing the passes of the Mounts Cristal at the cost oftentimes of heroic toils, have to-day penetrated into the very heart of the African Continent reaching the regions of the Manyema, where Livingstone beheld the horrors of slave trading and where the bravery of our countrymen destroyed forever the Arabian domination.

The entire Belgian Nation has collaborated in the work of which the museum of the Belgian Congo and the colonial exposition offer to the international public an eloquent compendium; but the great figure of King Leopold II towers above all.

In establishing the independent State and in creating the vast colony of the Kongo King Leopold II gave a new impulse to national activity, threw open to his people an unlimited field, and gloriously enlarged for it the roads of the future.

Now that we have come to inaugurate the superb monument which he wanted to erect on this spot it behooves us to salute the great memory of the extraordinary man, who, despite the feeble means at his disposal and the obstacles which he had to overcome, succeeded in awakening in his people the great and daring initiatives of the Flemish of the Hanse.

The idea of establishing in Tervueren the museum of Belgian Kongo corresponds to the tradition which, at each epoch in our history, seems to reserve an important part for this ancient and picturesque locality.

Before mounting the episcopal throne at Liege, which he was later to illustrate, St. Hubert lived here long. He came back to die in this forest site which he loved.

Tervueren became later a freehold land of the Dukes of Brabant. They made of it their summer residence. It was in the castle of Tervueren, rebuilt by his wife, Marguerite Plantagenet, that Duke John II of Brabant signed the famous charter promulgated at Cortenberg, and one of the most interesting monuments of our medieval public law.

Neglected under the Dukes of Bourgogne, Tervueren saw its splendor revived when the reign of Albert and Isabel had come to stimulate our national hopes. Albert and Isabel greatly enlarged the ancient castle and placed therein a vast hall of paintings, comprising over 200 masterpieces. The good archduchess died at Tervueren on the 30th of November, 1633. More than a century later Prince Charles of Lorraine established in turn his residence on this site, and, prompted by

the desire to give impetus to Belgian industry, then very much depressed, he created here establishments for printing on cotton, a manufactory of wallpaper, and a factory of chinaware. Thus in the eighteenth century Tervueren was one of the points whence radiated over our country the civilizing evangelization.

Under the Dukes of Brabant it became one of the centers of feudal life. Under Albert and Isabel it possessed the museum of our artistic life. The initiative of Charles of Lorraine made of it one of the centers of the reviving Belgian industry.

It was therefore a just thought which established here, at the time when the colonial expansion is affirming itself, the museum of Belgian Kongo. Three international expositions mark the principal steps of its organization.

The first collection, which constituted the embryo of the museum, established primarily on the Place du Trone, was gathered together on the occasion of the Antwerp Exposition of 1894.

In 1897, at the time of the Brussels Exposition, the independent State created the Museum of Tervueren, and a few years later King Leopold II began the construction of the monument that Your Majesty deigns to inaugurate at the time when the Universal Brussels Exposition of 1910 has just opened its gates.

The new organization, which it has pleased the King to give the museum by his decree of January 1, 1910, enlarges and completes its scope. To the section of ethnography and to the section of natural science have been added the section of economical sciences, the section of moral and political sciences, and the section of photographic documentation and vulgarization, which group now for the first time their collections before the public eye. The *Annales du Musee du Congo*, under the auspices of the museum, is a prosperous and universally appreciated scientific publication, counting among its collaborators the most eminent scientists.

The progress already accomplished is considerable. The Government believes, however, that the work is only at its outset. In order to incessantly continue and improve this work, the Government knows that it can count on the cooperation of the personnel and the help of the committee of superintendence, the members of which it has pleased the King to choose from among the men who have made their mark in the various branches of science.

It is important that the scientific work which is being elaborated here be worthy of the work of colonization and of civilization, of which Belgium has just assumed the honor, and that it realizes perfectly the noble thought of its august initiator.

The museum of the Kongo must present the synthesis of all information relating to the colony, interest the great public therein, supply industry and commerce with all useful indications, inspire them with new initiatives, offer to scientists a documentation as complete as possible, and, by means of the alluring and suggestive spectacle of results obtained, dissipate prejudices, enlighten the good will of the many, awaken in the hearts the desire to collaborate in the great task of civilization in which Belgium, despite all hardships, will succeed in marking with deep imprint of its genius.

The economical aspect of the colonial problem is of great importance. From this standpoint the museum of the Kongo offers to our compatriots useful teachings. They will be better able to see there the resources which the Kongo offers to their activity. They will note, for instance, that the foundation of the colony determined in Belgium the creation of 191 industrial establishments and that it furnished a permanent supply of material to 431 other firms; but in the thought of the Government the economical standpoint remains subordinated to that of the moral progress—the supreme aim of colonization.

On the historical day of his joyful entry, before the chambers assembled, Your Majesty pronounced words the echo of which will resound throughout your reign. "For a people desirous of justice," said Your Majesty, "a colonizing mission can only be a mission of high civilization." Thus Your Majesty proclaimed, with the enthusiastic approbation of the whole Nation, that all the efforts of a nation for economical expansion, that all the work of man for the more rational occupation and the more profound knowledge of the globe are without value unless they tend, first of all, to widen the reign of justice and of peace.

The firm will to worthily prepare himself for the weighty obligations of sovereignty inspired Your Majesty with the desire to familiarize himself with the distant empire that Providence destined him to govern. He journeyed through it from one frontier to the other. And during these long days of travel the spectacle of this new nature, of these immense and rich territories, of these various populations, sympathetic, notwithstanding their feebleness and their destitution, spoke to his heart and confirmed in his soul for the honor of the Belgian country and the salvation of Africa, the design of being one day the beloved chief, who would complete the grand work of the founder of the colony in working with all his might, by means of the most severe equity, to raise the black race toward welfare, light, and goodness. The

unanimous sentiment of the nation mingles here with the sentiments of the King. In annexing the Kongo Belgium has wished to assume the protection of the people who occupy it.

The valiance of its sons has delivered Central Africa of the scourge of slave trading. Its sovereign action must transform these vast regions penetrating them, by the development of commerce, the methodical action of the administration, and the researches of science with the evermore active influence of European civilization.

Belgium is legitimately proud of the work undertaken by it in Africa. Resolved to pursue it to the end, it hopes to deserve the admiration of all and that this monument, erected here to the progress of colonial science by the munificence of a great King and the labor of so many men of high knowledge will largely contribute toward this result. For to the nation assembled in Brussels this monument will tell of all the great things accomplished out there by those whose devotion has conquered for their country a new empire and announce the impetus that, under the guidance of Your Majesty, the affection and labor of Belgium hold in store for the Belgian Kongo.

I beg Your Majesty to declare open the Museum of Belgian Kongo and the colonial section of the Kongo of the Brussels Exposition.

[Inclosure 2—Translation.]

SPEECH OF HIS MAJESTY THE KING.

LADIES, GENTLEMEN: The minister for the colonies has just rendered a just and solemn homage to the illustrious founder of the Kongo, King Leopold II.

It is a duty for all of us, gentlemen, to associate ourselves entirely to these words of patriotic gratitude. The colonial museum that we are now inaugurating was a happy conception of the late King. He wanted it worthy of the task he had undertaken. Ever animated with the desire to embellish the suburbs of his capital, he had planned imposing edifices, to which this charming landscape of Tervueren and this park, with its majestic prospects, were to offer a marvelous setting.

Mr. Renkin has very eloquently characterized the action of the Belgian people in the Kongo. He addressed to our compatriots words of praise in which I join most heartily. I take pleasure in recalling, in turn, this memorable epoch of the outset of the independent State, and I do so with all the more pleasure that I see among my auditors a great number of devoted servants of the first hour—these Africans who had faith in the future of the undertaking and who were its fearless and enlightened pioneers.

An immense task it was, that assigned to the Belgian people by the distinguished personalities gathered together by King Leopold II in the palace of Brussels, over 30 years ago.

This task comprised the exploring of those mysterious territories of Central Africa, their effective occupation by means of advance posts which were to be created, the crushing of the slave traders who spread terror and misery through all this part of the continent—in a word, the organizing of a real State by the delimitation of a vast district and the exerting to its furthestmost frontiers, of the beneficent action of the metropolis—a glorious but difficult mission coming to our officers as early as 1878.

In order to carry out such a program our compatriots displayed qualities of initiative organization, endurance, and courage truly admirable, and which can never be too highly praised. Let us not forget, above all, that it was our countrymen, officers, and noncommissioned officers issued from our regiments, who dealt the decisive blows to the power of the Arab slave dealers.

Even now we have out there excellent officials. I have seen them at work, I esteem them, and I wish to address to them a public testimonial of my sympathy. They are equal to their task, and they will wisely apply the reforms that we have taken the pledge to realize in order to extend to the whole of the Kongo a form of government worthy of Belgium.

My Government has resolutely taken up this course; numerous decrees have already been enacted, others are in preparation. All have in view the welfare of the natives and are inspired by a policy of generous liberty, for in the Kongo, as in Belgium, we wish to enjoy the esteem of our neighbors and, surrounded with the sympathies of other nations, advance incessantly in the path of progress.

But, aside from the noble task of the administrative and political organization, there is another, that of the economical, rational, and progressive exploitation of the country, and in which are destined to participate, in a fertile toil, all our national forces.

Present methods of colonization do not consist, as in former days, in the importation of arms, liquors, and the excessive exploitation of a country, but in introducing, into remote and primitive regions worthier customs sanctioned by Christianity, in spreading therein the discoveries of science and the marvels of modern technique. A colonizing people who understand its true interests looks out first of all for the welfare of the populations intrusted to its care.

Belgium owes it to itself to occupy an important place in the economical evolution of intertropical colonies, evolution of which the principal artisans are, together with the official and the officer, the missionary, the engineer, the merchant, the cultivator. Now, ought we not to recognize that the economical task is at present but roughly sketched?

And yet our beautiful colony has been well favored by nature. It has been generously gifted with marvelous waterways, most of which lend themselves very well to navigation or will become accessible thereto after the necessary work of rock blasting and buoy laying has been accomplished.

The railways, gentlemen, appear as the indispensable complement of this admirable network of waterways. Have we made the necessary efforts in order to develop them?

The railway of the lower Kongo will indeed remain a gigantic enterprise, unique in the economical history of Africa; but, since its achievement, aside from the railway of the great lakes, the essentially Belgian lines have but slightly progressed. It is desirable that we have at least a line of transportation, conceived and built by our compatriots, clear across the colony, and connecting the capital with the heart of the Katanga district. Without foretelling the future, the railway of the great lakes, duly extended, might realize this wish, which I formulate most heartily. In this respect we must become inspired by the example of the great colonizing nations which have undergone vast sacrifices in Africa.

When I speak of sacrifices, the exact significance of this term must be made clear; for there is hardly a railway in Africa which, after a certain number of years, does not repay the capital invested and procure for the colony considerable indirect resources. Thus statistics have registered the fact everywhere; that exportations and importations, as well as customs receipts, undergo an astonishingly rapid increase as soon as the railways are opened to traffic.

What we lack in the Kongo and what we need is a well-established system of means of communication, and, if I dare to thus express myself, a special policy of railways. This policy must have a national character. We can not better show its vital importance than by citing the example of the United States. A part of the history of this great people is taken up with the question of transcontinental roads, the construction of which was followed with anxiety and impatience throughout the entire continent. In Russia the roads into Asia were the object of an immense effort considered as necessary to the extension and the maintenance of the political and economical power of the Empire. The English, the French, the Germans have for many years past made the creation of railways the corner stone of their colonial action.

Our policy in regard to the means of transportation in the Kongo must be seconded with fearlessness and foresight; we must take into consideration, first of all, the general interest of the colony. Enterprises as vast in scope as these we have undertaken bring with them great duties and necessitate incessant efforts. Had the first pioneers of the independent State not displayed an untiring activity, had they not ever made generous sacrifices, we should not to-day be in possession of the Kongo. Let us follow this magnificent example; let us continue to display a constant energy full, above all, of confidence in our own forces.

Belgium has immense riches and can count upon men of great value who direct the investment of its financial reserves. May these distinguished men be also the artisans of the prosperity of our over-sea possessions; may they be convinced, as I am myself, of the national interest offered by the development of Belgian colonization. The credit institutions of this country have a patriotic function to accomplish—that of encouraging the expansion of capital in the Kongo and of thus powerfully cooperating in the success of the highly civilizing work which helps promote the honor of our course of action in Africa.

The minister has spoken in excellent terms of the aim and of the organization of the museum. I hope that this fine institution may be worthy of the high thought of its founder. I see in it a work of science and of education, a work of useful diffusion of knowledge among the masses and of colonial propaganda. Its rich collection will show to all the inexhaustible resources of our colony. Under an enlightened and active guidance a center of knowledge, a source of precious documentation, will constitute themselves here. This museum will be as a reflection of our colonial development; it will enhance and increase again the scientific patrimony of Belgium.

Gentlemen, I declare open the Museum of Belgian Kongo.

File No. 1806/674.

The Secretary of State to Minister Bryan.

[Extract.]

DEPARTMENT OF STATE,
Washington, June 6, 1910.

SIR: The department has received your No. 38, of the 5th instant, inclosing copy of the addresses delivered by the King of Belgium and the minister of the colonies upon the occasion of the recent opening of the Kongo Museum at Tervueren, and is glad to learn of the King's firm stand regarding reforms in that territory.

In assuming the duties of your new post you have no doubt familiarized yourself with the correspondence in the legation's archives in regard to the Kongo. You are, therefore, fully aware that, while the United States has for the present merely taken note of the Belgian announcement of annexation, the attitude of this Government has been one of benevolent encouragement and expectation that under the new régime and contemplated reforms the condition of the natives would be ameliorated and the treaty engagements to which the United States is a party fully observed. Your recent reports of the promulgation of various decrees affecting the Kongo, together with your dispatch under acknowledgement, are gratifying indications of the sincere purpose of the present Belgian authorities to effectually accomplish reforms. This Government will continue to observe the situation with interest, trusting that the measures now initiated may accomplish the results so confidently looked for.

I am, etc.,

(For Mr. Knox)
HUNTINGTON WILSON.

LIBERIA.

AFFAIRS IN LIBERIA.

Minister Lyon to the Secretary of State.

No. 222.]

AMERICAN LEGATION,
Monrovia, January 28, 1908.

SIR: I have the honor to inform you that the Liberian Legislature in joint session yesterday authorized the appointment of a commission to visit the United States of America. The commission will leave as early as possible after the adjournment of the legislature in February. The appointment of the commission may be regarded as the popular expression of the people.

I have, etc.,

ERNEST LYON.

Minister Lyon to the Secretary of State.

No. 232.]

AMERICAN LEGATION,
Monrovia, April 16, 1908.

SIR: I have the honor to inform you that the Liberian commission referred to in my No. 222, diplomatic, and dated January 25, 1908, consisting of Ex-president Dr. G. W. Gibson, Vice President J. J. Dossen, and Attorney C. B. Dunbar, together with C. R. Branch and T. J. R. Faulkner as attachés, will leave here the 17th instant, via Hamburg, Germany, for the United States of America.

I have, etc.,

ERNEST LYON.

The Liberian Commission to the Secretary of State.

THE "ARLINGTON,"
Washington, May 22, 1908.

SIR: We have the honor to inform you that we have arrived in Washington in the capacity of envoys extraordinary from the Republic of Liberia to your Government, and to respectfully ask that you appoint a time when we may call on you.

We have, etc.,

GARRETSON W. GIBSON.
JAMES J. DOSSEN.
CHAS. B. DUNBAR.

The Secretary of State to the Liberian Commission.

DEPARTMENT OF STATE,
Washington, May 23, 1908.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of the 22d instant, advising me of your arrival in Washington in the quality of envoys extraordinary from the

Republic of Liberia to the Government of the United States, and requesting the naming of a day when you may call on me.

In reply I have the honor to state that it will give me pleasure to see you at the Department of State on Tuesday afternoon, the 26th instant, at 1 o'clock.

I have, etc.,

ELIHU ROOT.

The Secretary of State to Ambassador Reid.

No. 714.]

DEPARTMENT OF STATE,
Washington, June 13, 1908.

SIR: I inclose herewith a copy of a communication, dated June 11, 1908, from the Liberian mission to the United States, by which the Government of the United States is requested to invite the Government of Great Britain to join with it in an arrangement looking to the perpetuity of Liberia.

With the envoys' note are inclosed copies of signed pro-memoriæ which passed between the British Embassy at Washington and the department in March, 1897. While copies of these are already in your embassy, further copies are herewith inclosed for your convenience.

Referring to these and to the communication addressed to the President of Liberia by the British consul at Monrovia on January 14, 1908 (a copy of which you will find with the department's instruction to you No. 630 of March 10, 1908), the department desires you to say to Sir Edward Grey that the Government of the United States having special interest in the welfare of Liberia, arising from the circumstances under which the settlement of that country was made, is very desirous to be of assistance to the Liberians, and that, having especially in view the British Government's communication of March 8, 1897, the Government of the United States would be glad to have the views of the British Government as to how the United States could cooperate with that Government toward promoting the welfare of Liberia.

I am, etc.,

ELIHU ROOT.

The Secretary of State to Minister Lyon.

DEPARTMENT OF STATE,
Washington, June 18, 1908.

SIR: I inclose for your information and the files of the legation copy of a correspondence relative to the request made by the Liberian envoys in this country that the United States invite the Government of Great Britain to cooperate with it with a view to assuring the perpetuity of Liberia.

I am, etc.,

ELIHU ROOT.

[Inclosure 1.]

The Liberian Commission to the Secretary of State.

THE ARLINGTON,
Washington, June 11, 1908.

SIR: Referring to our interview with you to-day we have the honor to transmit herewith copies of documents from the files of the state department, Monrovia, under dates March 8 and 13 and 13th July, 1897, being copies of the promemorias from your Government and Great Britain and of the dispatch from your minister to Liberia relating thereto.

We beg leave to repeat our request that your Government would take the initiative toward inviting Great Britain to join with the United States in an arrangement that will give some definite shape to the deep interest she so generously expressed in the perpetuity of Liberia and which received the sincere approval of your Government.

We beg again to thank you for the very kind assurances expressed in this relation.

With our high consideration, we have, etc.,

G. W. GIBSON.
JAMES J. DOSSEN.
CHAS. B. DUNBAR.

[Subinclosure 1.]

Minister Heard to the Secretary of State of Liberia.

LEGATION OF UNITED STATES,
Monrovia, Liberia, July 13, 1897.

MR. SECRETARY. It is my privilege to present these promemorias exchanged between the United States and Great Britain at Washington.

The one from the United States, which I have the honor to represent at this court, gives me profound pleasure to present to the home of my ancestors.

The one coming from Great Britain increases my admiration of Her Majesty's Government as a favor of justice and equity.

By these promemorias you are assured that any unfriendly encroachment upon your territory in future will be regarded by these powers as an act against their earnest protest.

The United States desires Liberia to remain an independent and distinct nation, and to resist all encroachment toward absorption, guaranteeing her sympathy to this end, assuring her that the friendship which has so long existed between the United States and Liberia remains unshaken and grows more intimate daily.

In expressing these good feelings, I am authorized to convey personally the warm affections of the new President of the United States of America for Liberia and her future prosperity.

I ever remain, faithfully and sincerely,

WILLIAM H. HEARD,
Min. Res. Con. Gen.

[Subinclosure 2.]

The British Ambassador to the Secretary of State.

[Pro memoria.]

BRITISH EMBASSY,
Washington, March 8, 1897.

The undersigned is instructed by his Government with reference to repeated encroachments on the territory of the Liberian Republic to submit to the United States Government the following suggestions:

It might prove of service to the Liberian Republic and encourage it to resist absorption by a foreign power were the Governments of Great Britain and of the United States to make a joint declaration of the special interest taken by them in the independence of that Republic.

JULIAN PAUNCEFOTE,
H. B. M. Ambassador.

[Subinclosure 3.]

The Secretary of State to the British Ambassador.

[Pro memoria.]

DEPARTMENT OF STATE,
Washington, March 13, 1897.

Having reference to the confidential pro memoria submitted by his excellency the British ambassador, on the 8th of March last, and being desirous, in view of the circumstance of that Republic being an offshoot of the community of the United States, and to show toward it a kind spirit and all proper sympathy, the United States for its part declares the special interest taken by it in the independence of the Republic of Liberia and the concern it must feel should any prospect of its absorption by a foreign power develop in the future.

The Government of the United States is gratified to perceive from the British promemoria of March 8 last that Her Majesty's Government entertains a similar special interest in the independence of the Liberian Republic.

JOHN SHERMAN.

[Inclosure 2.]

*The Secretary of State to the Liberian Commission.*DEPARTMENT OF STATE,
Washington, June 13, 1908.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of the 11th instant, in which you inclose copies of the pro memoria exchanged between the British ambassador at Washington and the Secretary of State of the United States, and dated respectively March 8 and 13, 1897, concerning the special interest taken by the Governments of Great Britain and the United States in the independence of Liberia.

In connection with these documents you request that this Government "take the initiative toward inviting Great Britain to join with the United States in an arrangement that will give some definite shape to the deep interest she so generously expressed in the perpetuity of Liberia."

In reply I have the honor to state that the ambassador of the United States at London will be instructed to open with the Government of Great Britain the subject of contributing to the welfare of Liberia, making the communication of March 8, 1897, from the British ambassador at Washington, the basis of negotiation.

I have, etc.,

ELIHU ROOT.

Ambassador Reid to the Secretary of State.

No. 668.]

AMERICAN EMBASSY,
London, July 25, 1908.

SIR: With reference to the department's instruction, No. 714 of the 13th ultimo, requesting the views of the British Government as to the best manner in which they could at the present time cooperate with us in order to promote the welfare of Liberia, I have the honor to inclose herewith a copy of a note which I have received from Sir Edward Grey on the subject, dated the 23d instant, in reply to my note to him of the 29th ultimo, a copy of which is also inclosed. Sir Edward Grey's note suggests there would be no objection to the appointment of a judicial officer of United States to act as adviser if so desired.

I have, etc.,

WHITELAW REID.

[Inclosure 1.]

*Ambassador Reid to the Minister for Foreign Affairs.*AMERICAN EMBASSY,
London, June 29, 1908.

SIR: In view of a request preferred by the three commissioners of Liberia now in Washington on a diplomatic mission, as well as in view of the old agreement between His Majesty's Government and that of the United States about their special interest in the independence of the Liberian Republic, I am instructed to say that the Government of the United States still maintains a special interest in the welfare of Liberia, arising from the circumstances under which the settlement of the country was made, and is very desirous now to be of assistance to the Liberians.

Recalling the agreement referred to (made on the initiative of His Majesty's Government Mar. 8, 1897, concurred in by us Mar. 13, 1897), we should be glad to have your views as to how the two Governments could best cooperate at the present time toward promoting the welfare of Liberia.

I have, etc.,

WHITELAW REID.

[Inclosure 2.]

*The Minister for Foreign Affairs to Ambassador Reid.*FOREIGN OFFICE,
London, July 23, 1908.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of June 29 last, in which, after calling attention to the special interest felt by your excellency's Government in maintaining the independence of the Liberian Republic as borne out by the notes exchanged between the British and United States Governments in March, 1897, you request the views of His Majesty's Government as to the best manner in which the Government of the United States could at the present time cooperate with His Majesty's Government in order to promote the welfare of Liberia.

As your excellency is aware, the interest felt by the Government of the United States is fully shared by His Majesty's Government, who, at the request of the Liberian authorities themselves, have lent to them the services of certain officials to assist in reorganizing their customs and their frontier police force. Mr. W. J. Lamont, who has been intrusted with the reorganization of the customs, has already been able to increase considerably the revenue derived from this branch of the administration and has succeeded, it is hoped, by his methods in introducing a more healthy tone into the customs department. He has also recently been appointed by the Liberian Government to be their financial adviser, and there is reason to hope that his advice may lead to an improvement in the administration of that department.

As I had the honor to explain in March last to the United States chargé d'affaires, His Majesty's Government have, in any measure they may be called upon to take in Liberia, no designs whatever upon the independence or integrity of the country, and they do not intend to undertake any responsibility with regard to it. The services of British officials have been lent to the Liberians solely with a view to the better preservation of order, more particularly in that part of Liberia which marches with Sierra Leone and improved administration.

The French Government also, as your excellency is doubtless aware, takes a special interest in the affairs of the Republic, and His Majesty's Government have already assured them that they would have no objection to the services of some French officials being lent for the same objects as the British officials. It is doubtful, therefore, whether there is at the present time any scope for the cooperation of the United States Government in the customs or police, and if they desire to render active assistance to the Liberian Government they will, perhaps, prefer to direct their attention to other branches of the administration, which are as urgently in need of reform.

That reforms are required in one other branch at least His Majesty's Government have reason to know, for among the chief difficulties which His Majesty's Government experience in regard to Liberia are the frequent complaints received from British subjects as to the treatment they receive in the Liberian courts. If, therefore, the United States Government could see their way to introducing reforms into the judiciary, either by lending the services of an official to act as judicial adviser or in some other manner, much good would, in the opinion of His Majesty's Government, be

derived not only by the various subjects of foreign nationalities resident in the country, but also by the Liberians themselves.

While calling attention more especially to this one branch of the administration which has been a frequent source of trouble, I need hardly add that His Majesty's Government would welcome the cooperation of the Government of the United States with them in Liberia in any other manner which may appear more suitable or more desirable on a consideration of all the circumstances.

It appears to His Majesty's Government that the main risk to the future of Liberia arises from the inefficiency of Liberian administration of their own affairs, especially in matters of finance, and any suggestion which the United States might see fit to give them to follow the advice of such foreigners as they have themselves engaged to help in their administration would have a beneficial effect.

I have, etc.,

E. GREY.

The Secretary of State to President Roosevelt.

DEPARTMENT OF STATE,

Washington, January 18, 1909.

The PRESIDENT: In the month of June last the Republic of Liberia, through a commission specially accredited to this Government, applied to the United States for assistance in maintaining its independence and to enable it to carry on a peaceful and orderly government. The particular form of assistance which the commissioners contemplated in their application was chiefly a guaranty by the United States of the territorial and political integrity of Liberia, with such reservations and upon such conditions as might be agreed upon.

Upon being convinced that such a guaranty was impracticable, the commissioners further requested that the United States should lend to Liberia officers to aid in the conduct of its administration and should confer with the Governments of other countries having interests upon the west coast of Africa, and particularly with Great Britain, which has rendered material assistance to Liberia in the past, with a view to ascertain how best to render assistance and with a view to give to Liberia the moral support which would result from evidence of interest in her welfare on the part of the United States.

To these requests attentive consideration has been given. There have been full conferences with the commissioners and with Mr. Booker T. Washington, who was much interested in their mission, and with representatives of other interested powers, and reports from general and from special representatives of the United States in Liberia, and the conclusion reached by the State Department is quite clear that Liberia is very much in need of assistance, that the United States can help her substantially, and that it is our duty to help her.

The condition of Liberia is really serious. Between 40,000 and 50,000 civilized negroes, for the most part descendants of the original colonists from the United States, occupy a territory comprising 43,000 square miles, in which there are also over a million and a half members of uncivilized native tribes. The civilized part of the population have been to a great degree cut off from any intimate relation with the rest of the civilized world for two-thirds of a century. They began with but little education, with no acquired skill in the art of government, and they have had but little opportunity to improve through intercourse with other and more advanced communities.

They find it especially difficult to control the native tribes or to conduct their own Government in accordance with modern requirements.

The British colony of Sierra Leone to the north and the French possessions closing in their hinterland to the east are almost continuously complaining of the failure of Liberia to maintain order upon the border. Notwithstanding the very kindly disposition on the part of Great Britain and the similar disposition on the part of France, there is imminent danger that the Republic, unless it receives outside assistance, will not be able to maintain itself very long.

Liberia is an American colony. It was established through the combined efforts of our Government and philanthropic and missionary enterprises in the United States, organized in the American Colonization Society and in societies in Maryland, New York, Pennsylvania, Mississippi, Louisiana, and other States. The Government participation in the establishment was the result of a series of statutes extending from 1794 to 1819 for the abolition of slavery. The last of these statutes, the act of March 3, 1819, provided that negroes from captured slavers should be safely kept, supported, and removed "beyond the limits of the United States."

For the execution of this statute President Monroe in 1819 appointed two agents of the United States Government who proceeded to cooperate with the various colonization societies, and according to a report of Amos Kendall, Fourth Auditor to the Secretary of the Navy in 1830, the resources of the Government were employed "to colonize recaptured Africans, to build homes for them, to furnish them with farming utensils, to pay instructors to teach them, to purchase ships for their convenience, to build forts for their protection, to supply them with arms and munitions of war, to enlist troops to guard them, and to employ the Army and Navy in their defense."

The first members of the colony were transported from America and landed upon African soil in vessels chartered by the Government of the United States.

On the 24th of March, 1843, Mr. Webster, then Secretary of State, writing of Liberia to Mr. Everett, then American minister in London, said:

Founded principally with a view to the melioration of the condition of an interesting portion of the great human family, this colony has conciliated more and more the good will, and has from time to time received the aid and support of this Government. Without having passed any laws for their regulation, the American Government takes a deep interest in the welfare of the people of Liberia, and is disposed to extend to them a just degree of countenance and protection.

On the 25th of September, 1843, Mr. Upshur, then Secretary of State, in a letter concerning Liberia, to the British minister in Washington, said:

To the United States it is an object of peculiar interest. It was established by our people, and it has gone on under the countenance and good offices of our Government. It is identified with the success of a great object, which has enlisted the feelings and called into action the enlarged benevolence of a large proportion of our people. It is natural, therefore, that we should regard it with greater sympathy and solicitude than would attach to it under other circumstances.

From time to time since 1843 there have been expressions of interest in Liberia on the part of the United States Government, including the recognition of the independence of the Republic and a treaty of commerce and navigation in 1862, and also including a correspond-

ence with the British Government in an ineffective effort to be of assistance to the people of Liberia in 1897. The present situation is to some extent indicated by a recent correspondence through the American ambassador in London, a copy of which is annexed.

It is unnecessary to argue that the duty of the United States toward the unfortunate victims of the slave trade was not completely performed by landing them upon the coast of Africa, and that our nation rests under the highest obligation to assist them, so far as they need assistance, toward the maintenance of free, orderly, and prosperous civil society.

The interest of the people of the United States in the welfare and progress of the millions of American citizens of the black race in the United States also furnishes a strong reason for helping to maintain this colony, whose success in self-government will give hope and courage, and whose failure would bring discouragement to the entire race.

With all the study which it has been possible to give and with all the assistance which the Liberian commissioners themselves could give, it has been found very difficult to determine the precise things which the Government of the United States had better do by way of giving assistance, and upon the most careful consideration I am satisfied that we ought to send to Liberia a commission of three experienced and judicious Americans to examine the situation there and confer with the officers of the Liberian Government and with the representatives of other governments actually present in Monrovia, with a view to reporting recommendations as to the specific action on the part of the Government of the United States which will constitute the most effective measures of relief.

I accordingly advise that Congress be asked for an appropriation of, say \$20,000, to pay the expenses of such a commission, and that in case of a favorable action by Congress a suitable vessel of the United States Navy be designated to transport the commission to and from Liberia.

Faithfully, yours,

ELIHU ROOT.

The Secretary of State to Minister Lyon.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1909.

Mr. Bacon informs Mr. Lyon that it is reported that the Liberian situation is most disquieting, and that there is every need of maintaining order and upholding the constitutional Liberian Government. Mr. Bacon says that any misguided popular opposition now can only precipitate grave questions and make very difficult the effective influence of the United States, and urges the maintenance of initiated reform, stable reorganization of financial administration, faithful observance of international obligations, and security for foreign life and property. Adds that this Government is about to send a commission to Monrovia to report concerning the situation and to counsel prudence.

Ambassador Reid to the Secretary of State.

No. 849.]

AMERICAN EMBASSY,
London, March 2, 1909.

SIR: With reference to my cable of the 1st instant¹ respecting the affairs of Liberia, I have the honor to inclose herewith a copy of the note from foreign office of the 27th ultimo upon which the same was based.

It will be seen that His Majesty's Government are much gratified to learn of the instructions which have been telegraphed to Mr. Lyon and of the approaching dispatch of the commission to Monrovia. They are convinced that the action which our Government propose to take will be productive of good results.

Sir Edward Grey also states that the British consul general at Monrovia has been instructed to give the commission any information in his power and to advise British subjects in the service of the Liberian Government who are not in the employment or under the control of the British Government to do the same if the commission desire it, and generally to afford any help they can in facilitating its inquiry.

A note has been addressed by Sir Edward Grey to the French Government also, proposing that they should join His Majesty's Government in making joint representations at Monrovia.

I have, etc.,

• WHITELAW REID.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, February 27, 1909.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th instant respecting the affairs of Liberia and to express to your excellency my thanks for that communication.

His Majesty's Government are much gratified to learn of the instructions which have been telegraphed to Mr. Lyon, and of the approaching dispatch of a commission to Monrovia, and they are convinced that the action which the United States Government propose to take will be productive of useful results.

His Majesty's consul general at Monrovia has been instructed, in accordance with the promise contained in my note of the 4th instant, to give the American commission any information in his power, and to advise British subjects in the service of the Liberian Government who are not in the employment or under the control of His Majesty's Government to do the same if the commission desire it, and generally to afford any help they can in facilitating its inquiry.

Upon receipt of your note under reply I addressed a note to the French Government, proposing that they should join His Majesty's Government in making joint representations at Monrovia.

I have, etc.,

(For Sir Edward Grey:)
W. LANGLEY.

¹ Not printed.

Ambassador Reid to the Secretary of State.

No. 1205.]

AMERICAN EMBASSY,
London, March 9, 1910.

SIR: With reference to your cable instruction of March 5,¹ informing me that the President will, probably within a fortnight, send a special message to Congress with regard to our relations with Liberia, and that meanwhile it is desirable to maintain there the statu quo, I have the honor to inclose herewith a copy of my note to the foreign office, dated the 7th instant, in which I express the hope that Great Britain may be disposed also to acquiesce in the status quo until the proposed action of the United States in assistance of Liberia shall have been definitely determined.

I have, etc.,

WHITELAW REID.

[Inclosure.]

*Ambassador Reid to the Minister for Foreign Affairs.*AMERICAN EMBASSY,
London, March 7, 1910.

SIR: Under the instructions of my Government I have the honor to advise you that the President of the United States will soon, probably within a fortnight, send a special message to the Congress on our relations with Liberia. A response to the requests of Liberia will soon thereafter be made and a representative sent to Monrovia to negotiate concerning them. Meanwhile Liberia is expected to maintain the status quo, as stated by our commission, and avoid all entanglements. But at present my Government is informed that boundary negotiations with Liberia are actively pressed. In view of the above facts, as well as of the peculiar relations long existing between the United States and Liberia, perhaps you will regard as not unreasonable the hope which my Government entertains and has instructed me to communicate, that you may be disposed also to acquiesce in the status quo, until the proposed action of the United States in assistance of Liberia shall have been definitely determined.

I have, etc.,

WHITELAW REID.

Ambassador Reid to the Secretary of State.

No. 1213.]

AMERICAN EMBASSY,
London, March 16, 1910.

SIR: With reference to my dispatch No. 1205 of the 9th instant, transmitting a copy of my note to the foreign office for the maintenance of the status quo in Liberia, I have the honor to inclose herewith a copy of the foreign office reply, dated the 14th instant, in which it is stated that the British Government had already decided not to press their boundary negotiations with Liberia until the Government of the United States had announced the line of action they proposed to adopt as a result of the recent visit of the American commissioners to Liberia.

In inviting the attention of the United States Government to the serious condition of affairs within the Republic of Liberia Sir Edward Grey expressed the opinion that it is extremely desirable that arrangements be made at an early date for a general settlement of the finan-

¹ Not printed. See inclosure to this dispatch.

cial difficulties in which the country is involved, and states that His Majesty's Government is prepared to give their cordial support to any scheme which the United States Government might put forward for granting a loan to the Liberian Government, provided that the preferential rights and privileges of the British bondholders of the present customs loan were maintained and that provision be made in the scheme for the payment of outstanding British claims.

Furthermore he is of opinion that the conditions of any future loan should be such as to place complete control of revenue and expenditure in the hands of European or American commissioners.

In conclusion Sir Edward Grey expressed his desire to know the views of the United States Government with regard to the foregoing suggestions and accordingly I cabled you yesterday the substance of the note.

I have, etc.,

WHITELAW REID.

[Inclosure.]

The Minister for Foreign Affairs to Ambassador Reid.

FOREIGN OFFICE,
London, March 14, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 7th instant, relative to the situation in Liberia, and to inform your excellency in reply that His Majesty's Government had already decided not to press their boundary negotiations with Liberia, until the Government of the United States had announced the line of action they proposed to adopt as a result of the recent visit of the American commission to Liberia.

I would, however, invite the attention of your excellency's Government to the fact that, according to the information which had reached His Majesty's Government, the Republic of Liberia is on the verge of bankruptcy and remedial measures are urgently required.

His Majesty's Government feel that it is extremely desirable that arrangements should be made at an early date for a general settlement of the financial difficulties in which the country is involved, and that the Liberian Government should be prevented from increasing their debt. His Majesty's Government would be prepared to give their cordial support to any scheme which the United States Government might put forward for granting a loan to the Liberian Government for the purpose of putting the finances of Liberia upon a sound basis, provided that the preferential rights and privileges of the British bondholders of the present customs loan were maintained, and that provision were made in the scheme for the payment of outstanding British claims. His Majesty's Government are further of opinion that the conditions of any future loan should be such as to place complete control of revenue and expenditure in the hands of European or American commissioners.

His Majesty's Government would be glad to know the views of the United States Government with regard to the foregoing suggestions.

I have, etc.,

W. LANGLEY.
(For Sir Edward Grey.)

The Acting Secretary of State to Minister Lyon.

[Extract.]

DEPARTMENT OF STATE,
Washington, March 19, 1910.

SIR: In accordance with the department's telegram to you of this date you are to proceed to your post aboard the U. S. S. *Birmingham*, sailing from Fortress Monroe March 20, 1910.

You have been shown in the department, from time to time, the various diplomatic correspondence concerning developments in

Liberia, and upon arrival at your post you will immediately thoroughly familiarize yourself, from the archives of the legation, with the present situation.

There is inclosed herewith for your information a copy of the report of the commission of the United States of America to the Republic of Liberia.¹ The report of the commission will next week be transmitted to Congress by the President, together with a message discussing the Liberian situation.

Your are at liberty informally and orally to make known to the Liberian Government the nature of the recommendations of the commission, which are all responsive to Liberia's official requests, adding that the Liberian situation will be made the subject of a message to Congress, to be transmitted within the next few days, and that shortly thereafter the decision of this Government will be communicated to Liberia.

The cruiser *Birmingham* is being dispatched to Liberia by this Government in response to the request of the Liberian Government, through the legation at Monrovia, for assistance in dealing with troubles with the aboriginal inhabitants. The commander of the *Birmingham* has been informed by the department concerning the situation in Liberia, and you will allow him access, for his information, to the inclosed copy of the report of the commission. After your arrival in Liberia you will keep the department promptly and fully advised as to developments.

I am, sir, etc.,

HUNTINGTON WILSON.

The Vice President of Liberia to President Taft.

[Telegram.]

MONROVIA, LIBERIA,
March 21, 1910.

Liberian public boundlessly grateful for the magnanimous help of your great and good nation.

VICE PRESIDENT DOSSEN.

The Secretary of State to the Commissioners of Liberia.

DEPARTMENT OF STATE,
Washington, April 13, 1909.

GENTLEMEN: You have been appointed commissioners on behalf of the Department of State to investigate, with the consent of the authorities of the Republic of Liberia, the interests of the United States and its citizens in that country.

The interests of the United States and its citizens in the Liberian Republic arise from the foundation and history of that Republic, and the actual and potential interests which continue to-day are related to matters of commerce, intercourse, and possible immigration, the safeguarding of which interests depends in turn wholly upon the conditions of stable government and the welfare of the Liberian people.

The determination of this Government to send a commission to Liberia for the above-mentioned purpose has been brought about by

¹ See S. Doc. No. 457, 61st Cong., 2d sess.

an application made to the United States by the Republic of Liberia, through a commission specially accredited to this Government in the month of June, 1908, for assistance in maintaining its independence and to enable it to carry on a peaceful and orderly government. With all the study which it has been possible to give and with the assistance which the Liberian commissioners themselves could give, it has been found very difficult to determine the precise thing which the Government of the United States might find it practicable and expedient to do in the way of giving assistance. It has, therefore, been decided to send to Liberia the commission, of which you have been appointed members, to examine the situation and to confer with the officers of the Liberian Government and with the representatives of other Governments actually present in Monrovia, with a view of reporting recommendations as to the specific action on the part of the Government of the United States which may afford the most effective measures of relief.

In making your investigation and recommendations you will give particular attention to the following subjects, which appear from the information in the possession of the department to be those in regard to which the Liberian Government especially needs friendly aid and counsel:

1. The controversies between Liberia and neighboring countries concerning the boundaries of the Republic. It is understood that these boundaries have been fixed by solemn international agreements, but that, owing to the inability of the Liberian Government properly to control the native tribes and its consequent failure to maintain order upon the border, there is reason to apprehend the temporary and eventually the permanent occupation of Liberian territory by her more powerful neighbors on the ground of the necessity of assuring order and safety in their own colimiting territories.

2. The organization of the frontier police force. It seems that the employment of certain foreign officers and the enlistment of certain men not of Liberian nationality in this force is or has been the occasion of an acute international dispute, and that the preference of the Liberian people is for the employment of citizens or subjects of a Government that is not territorially interested.

3. The assistance which the United States Government may be able to give in a reorganization of the fiscal affairs of Liberia in order to place that Republic upon a firm and stable financial basis. In this connection your particular attention is called to the customs department of the Liberian Government, which, it is understood, is largely under the control of foreign officials in order to secure the payment of the foreign loans, and to the treasury department, to which there has already been assigned a foreign financial adviser. The employment of officers of a single neighboring foreign nationality in the various departments of the Liberian Government to the exclusion of officers of other neighboring countries is claimed to be one of the principal causes of embarrassment. There is appended hereto, for the information of the commission in considering the financial affairs of Liberia, a copy of the convention between the United States and the Dominican Republic providing for the disinterested assistance of the United States in the collection and application of the customs revenues of that Republic. The enforcement of the provisions of this convention has relieved the Dominican Republic from serious finan-

cial difficulties with foreign creditors and has afforded a healthy revenue for the administration of internal affairs.

4. The assistance which the United States may be able to give in the postal, educational, and agricultural departments of the Liberian Government.

5. The judicial department of Liberia appears to be a source of complaint and any assistance which the United States may be able to give in order to remedy the conditions complained of in this department is likely to be gladly welcomed.

6. Of the many subjects of common interest to Liberia and the United States, among the most important historically and in some other respects is that of the colonization of Liberia by the American negro, and the fact that the country may offer suitable inducements to be availed of by immigrants of the Afro-American race if there be cooperation by the United States to keep open the opportunity for such colonization by desirable immigrants. This phase of the subject may therefore properly receive your attention.

If the commission finds opportunity to exert good offices to bring about the composition of the differences between Liberia and the adjacent governments without the United States becoming in any way a contracting or executory party to such composition, the commission is at liberty to do so. It is, of course, understood that the commission is not to enter into any international engagements to which the United States is a party except ad referendum.

The records of your commission will be kept by your secretary, Mr. George A. Finch, who will take with him, for your convenient reference, copies of the pertinent and material portions of the records of the department bearing upon the various subjects mentioned in these instructions.

To advise and assist you in your investigations and recommendations concerning military affairs, Capt. Sydney A. Cloman, United States Army, has been attached to the commission.

Owing to the climatic conditions in the country which you are about to visit, Maj. Percy M. Ashburn, of the Medical Corps of the United States Army, has been designated to accompany you for the purpose of looking after the health of the members of the commission.

Mr. Frank Abial Flower, an attaché of the commission, will doubtless be able to supply considerable information and perhaps a few suggestions, based upon his special study of African affairs; and doubtless his assistance in the investigations under the direction of the commissioners will be valuable.

The commission will proceed from Washington to Hampton Roads, from which place it will depart, on the 23d of April, on board the U. S. S. *Chester*, *Birmingham*, and *Salem*. It is expected that you will arrive in Monrovia, Liberia, about May 6, and that you will remain in that country 30 days making your investigations. The U. S. S. *Chester*, *Birmingham*, and *Salem* will lie off Monrovia during your stay in Liberia and you will take your lodgment and make your headquarters aboard those vessels. When you have completed your investigations you will return to the United States aboard the same vessels and make your report and recommendations to the Department of State.

I am, etc.,

P. C. KNOX.

The Secretary of State to the Minister for Foreign Affairs of Liberia.

DEPARTMENT OF STATE,
Washington, April 23, 1909.

EXCELLENCY: In the interview which he had on June 1 last with the commissioners whom his excellency the President of Liberia was pleased to send to the United States, my predecessor, the honorable Elihu Root, expressed to them the friendly interest of the United States in Liberia and this Government's willingness to examine the subjects presented by the commissioners with a view to determine whether and to what extent the United States could be of assistance to Liberia.

Being satisfied, after a most careful consideration of the subject, that a commission of experienced and judicious American citizens should be sent to Liberia to examine the situation there and to confer with the officers of the Liberian Government with a view to reporting recommendations as to the specific action on the part of the Government of the United States which might afford the most effective measures of relief, Secretary Root applied to Congress for legislative action which would enable this to be done.

The Congress of the United States at its last session having favorably responded to this application, I have been pleased to designate Mr. Roland Post Falkner, Dr. George Sale, and Mr. Emmitt J. Scott, distinguished citizens of the United States, to compose the commission. I request your excellency to receive them favorably and to procure for them such assistance as may be needed from the authorities of Liberia in carrying out the instructions I have issued to them.

The commission will be accompanied by Mr. George A. Finch, as secretary, Maj. Percy M. Ashburn, of the Medical Corps of the United States Army, and Capt. Sydney A. Cloman, United States Army, military attaché to the embassy of the United States at London, as medical and military attachés, respectively, and Mr. Frank Abial Flower as civilian attaché.

I offer, etc.,

P. C. KNOX.

The British Embassy to the Department of State.

AIDE-MÉMOIRE.

BRITISH EMBASSY,
Washington, June 9, 1910.

His Majesty's ambassador received with pleasure on the 19th April the expression of the hope on the part of the Secretary of State that he would be able shortly to communicate his proposals for the reestablishment on a better basis of the finances of Liberia by the aid of the joint action of American, British, French, and German financiers.

This statement was communicated to His Majesty's Government, who, in the confident expectation that some such proposal would shortly be forthcoming, suspended any action on their own part with the object of facilitating the task of the United States Government.

This course has, however, involved a delay during which British interests in Liberia have been, and are, suffering, and His Majesty's Government are informed that the Government of Liberia is now even unable to provide for the sinking fund of the loan due on July 1.

In view of the urgency of the situation His Majesty's ambassador has been instructed to request the Secretary of State to be good enough to communicate, as soon as he finds it possible to do so, the proposals which the United States Government intend to make regarding the matter, which has now become urgent.

He may be assured that His Majesty's Government will be favorably disposed toward any scheme for the better regulation of Liberian finances through the benevolent counsels of the United States of America which should not involve any result prejudicial to existing British interests.

File No. 18222/486.

The Secretary of State to Minister Lyon.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 11, 1910.

Mr. Lyon is directed to inform the Liberian Government that after attentive consideration of the contents of the report of the American commission, a copy of which is being transmitted by mail, and mature reflection upon the recommendations contained therein, the President has decided to lend Liberia assistance in the financial, military, and agricultural departments; that the financial assistance is to take the form of a loan to be negotiated by American bankers who are to have as partners British, French, and German associates; that the loan is to be of sufficient amount to pay off or refund Liberia's present indebtedness, foreign and domestic; that as security for the loan, Liberia is to pledge her customs and head moneys, the collection of which is to be under the control of a receivership to be administered by an American general receiver, who is to be assisted by three assistant receivers of British, French, and German nationality; that the general receiver is to act also as financial adviser; that the good faith of Liberia to the fulfillment of the terms of the agreement with the bankers and the indication of the willingness of the President of the United States to designate the general receiver are to be evidenced by an exchange of notes at Monrovia; that the department has for some time been in communication with a large American banking house concerning the proposed loan, and has had submitted to it a proposal which it can recommend for acceptance; that it only remains for a few minor details to be settled before a representative of the firm proceeds to Monrovia to lay the

proposition before the Liberian Government; that in the military department the President proposes to secure American officers for service in the frontier force, and in the matter of agriculture it is proposed to select for Liberia an expert for the position of director of agriculture, the salaries of these officials to be a charge upon the customs. Mr. Knox says this Government will also, at the proper time, enter upon negotiations to assure respect for the ascertained boundaries of Liberia. Mr. Knox states that the department would be pleased to learn how the proposed program is regarded by the Liberian Government.

The Department of State to the British Embassy.

AIDE MÉMOIRE.

DEPARTMENT OF STATE,
Washington, June 21, 1910.

In reply to the aide mémoire of the British embassy of June 9, requesting that His Britannic Majesty's Government may be informed as soon as possible of the proposals of the United States Government with respect to the reorganization of Liberian finances, the Secretary of State has the honor to confirm what was said to his excellency the British ambassador in the course of a conversation at the department on the 10th instant, to the effect that the United States is disposed to lend its friendly assistance to Liberia in securing a loan from American bankers, who will have as partners British, French, and German associates, the amount of the loan to be sufficient to pay off or refund Liberia's present indebtedness, foreign and domestic.

Before making known the intentions of the department, the Secretary of State has thought it advisable to inquire into the feasibility of the proposed plan as a financial undertaking and with that end in view has been for some time in communication with the banking house of Kuhn, Loeb & Co., of New York, and that firm has recently submitted a proposal which, if brought to final form, will, in the opinion of the department, accomplish the necessary financial reorganization which, from the report of the American commission and the information which his Britannic Majesty's Government has been so kind as to furnish from time to time, appears to be so urgently needed in Liberia.

A representative of Kuhn, Loeb & Co. is now in Europe, and it is expected that his negotiations will very shortly reach such a stage that he can conveniently discuss the terms of the proposed loan with his foreign associates, who will no doubt immediately communicate with their respective Governments, and the embassies of the United States will be properly informed, so that they will be able to discuss the proposed plan if called upon by the foreign offices of the Governments to which they are accredited. The Secretary of State has impressed upon the bankers the urgency of the financial situation in Liberia and the necessity for the utmost expedition in the negotiations.

In the meantime, however, the Secretary of State is happy to inform His Britannic Majesty's Government that the proposition submitted to the department contemplates the establishment of a re-

ceivership in Liberia to collect and administer the customs and head moneys, the general receiver, who is to act also as financial adviser, to be an American, and each of the countries whose nationals participate in the loan to be represented in the receivership by an assistant receiver.

Upon the conclusion of the agreement between the bankers and Liberia the department proposes in an exchange of notes at Monrovia to secure a pledge of Liberia's good faith to the fulfillment of its terms, and at the same time occasion will be taken to indicate the willingness of the President of the United States to designate the general receiver of customs provided for in the agreement, and in further response to the requests already made by Liberia, which have been favorably reported upon by the American commission, to select a director of agriculture and officers for the frontier force and to assist in securing a definite settlement of the boundary controversies between Liberia and the neighboring colonies.

MEXICO.

CELEBRATION OF THE FIRST CENTENNIAL OF THE INDEPENDENCE OF THE MEXICAN REPUBLIC.

File No. 23380/1.

The Under Secretary of Foreign Relations of Mexico to the Secretary of State.

[Translation.]

FOREIGN OFFICE,
Mexico, April 12, 1910.

MR. SECRETARY: On the eve of the official celebration of the first centennial of the independence of the Mexican Republic, in view of the cordial relations which happily bind us to your friendly nation the President has been pleased to direct that the most excellent President of the United States of America and his Government be invited, as I have the honor hereby to do, to designate, if deemed expedient, one person or more to represent them on the never-to-be-forgotten occasion, which is to us of so vast importance.

I beg to forward herewith to your excellency two copies of the program of the festivals by which Mexico has resolved to commemorate that event during the whole month of September next.

I thank your excellency in advance and take pleasure in renewing to you the assurances of my high consideration.

By direction of the secretary of foreign relations.

F. GAMBOA.

File No. 23380/1.

The Acting Secretary of State to the Mexican Ambassador.

No. 265.]

DEPARTMENT OF STATE,
Washington, June 29, 1910.

EXCELLENCY: Referring to your excellency's esteemed note of April 12 last, conveying an invitation from the President of the Republic of Mexico to this Government to be officially represented at the centennial celebration of your country, which takes place in September next, I have the honor to inform you that the President has appointed as his special ambassador to the celebration in question the Hon. Curtis Guild, jr., formerly governor of the State of Massachusetts. In addition, and in conformity with the action of the Federal Congress creating a special commission to represent this Government on the same occasion, the President has further appointed the following gentlemen to represent the Government of the United States, with the rank of envoys extraordinary and ministers plenipotentiary: United States Senator Lee S. Overman, of North Carolina; United States Senator Simon Guggenheim, of Colo-

rado; United States Senator Coe I. Crawford, of South Dakota; Representative David J. Foster, of Vermont; Representative William Marcellus Howard, of Georgia; Representative Jacob Sloat Fassett of New York; James W. Gerard, justice of the supreme court of New York; Franklin Murphy, ex-governor of New Jersey; and Col. Charles Alexander Rook, editor and proprietor of the Pittsburgh Dispatch.

I beg that your excellency will convey this information to your Government, and at the same time I have the honor to request that the department may be informed at your earliest convenience of the exact date in September when it will be agreeable to your Government for the special ambassador and the special commission, above referred to, to reach the City of Mexico.

Accept, etc.

HUNTINGTON WILSON.

File No. 23380/7.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 1.]

MEXICAN EMBASSY,
Washington, July 1, 1910.

MOST EXCELLENT SIR: I have the honor with the greatest satisfaction to acknowledge the receipt of your excellency's note No. 265, dated June 29 last, by which you are pleased to advise me that the most excellent President of the United States, in response to the invitation extended to the American Government by the President of the Mexican Republic, has been pleased to appoint as his special ambassador to the celebration of the centennial of Mexico, the Hon. Curtis Guild, jr., ex-governor of the State of Massachusetts, and that Congress having resolved to create a special commission to represent the Government of the United States at the said celebration, the most excellent President Taft had further appointed the following gentlemen in the character of envoys extraordinary and ministers plenipotentiary: Senator Lee S. Overman, of North Carolina; Senator Simon Guggenheim, of Colorado; Senator Coe I. Crawford, of South Dakota; Representative David J. Foster, of Vermont; Representative William Marcellus Howard, of Georgia; Representative Jacob Sloat Fassett, of New York; Mr. James W. Gerard, justice of the supreme court of New York; Mr. Franklin Murphy, ex-governor of New Jersey; and Col. Charles Alexander Rook, editor and owner of the Pittsburgh Dispatch.

I am now transmitting this gratifying intelligence to my Government which, I have no doubt, will appreciate the delicate attention of the Government of the United States in selecting persons of such distinction, and at the same time I beg to inform your excellency that the foreign delegates are expected to attend the festivals and ceremonies from the 8th to the 22d of September, inclusive, and that the program of the celebration of the centennial covers the whole of the month just mentioned.

I take pleasure, etc.

F. L. DE LA BARRA.

File No. 812. 415A/7.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, July 6, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note, dated the 1st instant, which you addressed to the department in answer to its note of the 29th ultimo informing you of the personnel of the special commission which will represent the United States at the celebration of the centennial of the independence of Mexico.

Your statement concerning the period during which foreign delegates are expected to attend the celebration has been noted.

Accept, etc.

HUNTINGTON WILSON.

File No. 23380/10.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 26.]

MEXICAN EMBASSY,
Washington, July 11, 1910.

MOST EXCELLENT SIR: Referring to the correspondence this embassy has had the honor to exchange with the Department of State on the subject of the celebration of the centennial of our independence, I take pleasure in informing your excellency that the dates of September 6 and 7 next have been set for the reception of the ambassadors and envoys of the Governments who will honor us with their attendance at the festivities.

Our minister of foreign relations would, therefore, be very glad if the delegates were in Mexico on the 5th of that month.

I further have the honor to apprise your excellency that on that occasion the said ambassadors and envoys will take precedence according to the date of their arrival in Mexican territory.

I take, etc.

F. L. DE LA BARRA.

File No. 812.415a/117b.

The Acting Secretary of State to the Mexican Ambassador.

DEPARTMENT OF STATE,
Washington, August 6, 1910.

EXCELLENCY: Referring to the call of Señor Ricoy at the department on Wednesday last, at which time he requested information on the following three points regarding the sending of this Government's commission to the centennial celebration of Mexico in September next: First, complete and accurate list of the members of the commission, including ladies; second, place and time of the entry of the commission on Mexican territory; and, third, date upon which the Mexican Government was officially notified of the appointment of the commission—I have the honor to inform you as follows:

Other than Ex-Gov. Curtis Guild, jr., of Massachusetts, who will go to Mexico as the special ambassador of President Taft, the party will

consist of Representative David J. Foster, of Vermont, heading the commission, accompanied by Mrs. Foster; Senator Lee S. Overman, of North Carolina, accompanied by his daughter, Mrs. Edwin C. Gregory; Senator Simon Guggenheim, of Colorado;¹ Senator Coe I. Crawford, of South Dakota, accompanied by Mrs. Crawford; Representative William M. Howard, of Georgia;¹ Representative Edwin Denby, of Michigan;¹ Justice James W. Gerard, of the supreme court of New York State, accompanied by Mrs. Gerard; Gen. Harrison Gray Otis, of California, accompanied by his granddaughter, Miss Marian McPherron; Charles Alexander Rook, of Pennsylvania, accompanied by Mrs. Rook; and the disbursing officer, Robert J. Shanley, of Vermont.

The commission will leave Washington on the evening of Wednesday, August 31, going via St. Louis over the Pennsylvania Railroad, the Iron Mountain route, and the Mexican National lines, reaching the first point in Mexican territory, Neuvo Laredo, at about 12.30 p. m. (Mexican time), September 2. A note to your embassy, dated June 29 last, officially notified your Government of the appointment of this commission.

I have the honor to advise you further that a telegram was sent yesterday to our embassy at Mexico City, giving the information desired by your Government on these three points, and instructing our ambassador to communicate its substance immediately to your Government.

Accept, etc.,

HUNTINGTON WILSON.

File No. 812.415A/125.

The President of Mexico to President Taft.

MEXICO CITY, December 8, 1910.

GREAT AND GOOD FRIEND: The sincere and legitimate desire which I feel to express to your nation and to Your Excellency the profound thanks of the people and of the Mexican Government for the demonstration of sympathy with which Your Excellency has been pleased to distinguish them in sending a special embassy to the festivals of the first centennial of the proclamation of the independence of Mexico, has impelled me to appoint Señor don Joaquin D. Casasus, senator to the congress of the union, as special ambassador to present to you these expressions of my most justified gratitude. In reiterating them in this capacity, he will transmit to you likewise the wishes which I form for the sincere and indissoluble friendship of Mexico for the United States of America.

With the intimate conviction that you will give a favorable welcome to Señor Licenciado don Joaquin D. Casasus, I beg you to give entire faith and belief to whatever he may say to you in my name, and, above all, when he assures you of the satisfaction with which I hope to see strengthened and extended the good intelligence which happily exists between the United Mexican States and the United States of America.

¹ Unable to accompany commission. Representative James L. Slayden, of Texas, accompanied by Mrs. Slayden, and Representative George W. Fairchild, of New York, accompanied by Mrs. Fairchild, were added to the above-named commission.

In this firm belief I take advantage of the opportunity to reiterate to you the assurances of the high esteem and unalterable friendship with which I am, great and good friend,

Your loyal and good friend,

PORFIRIO DIAZ.

[L. s.] ENRIQUE CREEL.

File No. 812.415A/124.

Ambassador Wilson to the Secretary of State.

No. 297.]

AMERICAN EMBASSY,
Mexico, December 13, 1910.

SIR: I have the honor to advise the department that I have just received from the Mexican Government a note stating that President Diaz has appointed the honorable Joaquin D. Casasus an ambassador on special mission, to express to the Government of the United States the gratitude of the people and Government of Mexico for the participation of the United States in the exercises celebrating the centennial of Mexican independence.

I have, etc.,

HENRY LANE WILSON.

NEGOTIATIONS BETWEEN THE UNITED STATES AND MEXICO FOR
THE ARBITRATION OF THE CHAMIZAL CASE.¹

The Secretary of State to the Mexican Ambassador.

No. 208.]

DEPARTMENT OF STATE,
Washington, March 22, 1910.

EXCELLENCY: I am happy to realize from your recent conversation at the department that the Government of Mexico, equally with that of the United States, is at the present moment more than ever before anxious to bring to a definitive and prompt settlement the question of the sovereignty of the Chamizal tract, which has been the subject of negotiations between the two Governments ever since the failure of the joint commission in 1897 to settle the boundary at this point, negotiations which have been particularly active during the last three years.

On July 19, 1907, your excellency's distinguished predecessor proposed arbitration, and in line with his suggestion there was considered and discussed the reference of the question to arbitration by a Canadian jurist. The Government of the United Mexican States very naturally concluded from the delay of the Federal Government's categorical response that the proposal in question had failed to commend itself. Therefore, as further evincing the desire for early settlement, your excellency recently so ably carried out your instructions to seek settlement of the question by an exchange of territory to be effected on the ground of interpretation of the line, thus making more specific the general suggestions made by your predecessor on May 21, 1908, and December 12, 1908.

¹ For other correspondence, etc., see printed documents in the Chamizal Arbitration Commission Report.

In the earlier of these communications and evidently with a view to facilitating this method of settlement, your excellency's predecessor proposed a new boundary treaty which should also have the effect of working some modifications—not, however, deemed by this department, after the most careful consideration, to be material—in the rules which guide the joint commission in tracing the boundary under the present convention.

So long ago as March 21, 1907, your predecessor called the department's attention to the action of the United States marshal in proceeding to the execution of certain writs of sequestration which had been issued by the United States District Court against certain persons in possession of land within the disputed tract which they claimed under Mexican title and at the request of your excellency's Government this Government intervened in these proceedings, calling the attention of the Federal courts to the treaty provisions whereby jurisdiction as regards the international title to the Chamizal tract had been conferred upon the International Boundary Commission, and suggested to the Federal court through the Department of Justice that, as a matter of international comity, no proceedings between individuals as regards private title which might seem, even indirectly, to involve the question of national sovereignty, should be allowed to proceed to the point of actually putting into execution writs of sequestration or of ejectment against the persons alleging Mexican title. Since that time your excellency's Government has, on various occasions, called the attention of this department to proceedings in the American courts deemed by your excellency's Government to threaten the disturbance of the possession of persons claiming under Mexican title in the disputed tract, and this department has, from time to time, in response to these requests, investigated the various matters complained of and taken such action as seemed appropriate in the premises.

It is not necessary to point out that in thus acting, as a matter of comity, in accord with the theory that the international sovereignty was in dispute, this Government has never admitted any derogation of its de facto jurisdiction over the Chamizal tract, any more than it has ever expected Mexico to do so, in the case of that portion of Cordova the status of which is theoretically similar. I would further invite your excellency's special attention to the fact that although, in practice, certain other persons have inadvertently profited by the stay of action by American courts, yet this Government has, in no instance, consented or intended to do more than stay judicial proceedings and the results thereof in the cases of persons actually claiming under Mexican titles.

Unfortunately this liberal policy has had a result which the Mexican Government would surely be the first to deplore; that is, many individuals without even prima facie evidence of title or right are taking actual physical possession of lands in the Chamizal tract relying upon the benevolence of this Government to shield themselves from the just consequences of their wrongful acts—a result evidently never contemplated by your Government.

The extreme irritation of the people of El Paso at this situation will at once be apparent to your excellency, and you will share my anxiety when I assure you that this situation is so fraught with danger of actual violence that I feel it must be at once remedied in

order to prevent some untoward incident which would disturb the good feeling which now so happily prevails between the people of El Paso and Juarez; and I add that the tension I find to exist on the ground is a great factor in compelling me now to ask the early and earnest consideration of your excellency's Government to the proposition which I shall now make, both to safeguard the immediate future and to assure a settlement of the question within the next half year—a result in the attainment of which I may rely upon your excellency's energetic and able cooperation:

First. The Government of the United States as a practical compromise proposes to continue until the settlement of the question of the sovereignty of the Chamizal the stay of proceedings in cases of persons able to show that they are claiming under *prima facie* Mexican title and that they or their predecessors in interest were in actual occupation of the lands so claimed on March 15, 1910, but not to interfere with the proper execution of judicial process against persons upon the Chamizal tract who have no *prima facie* Mexican title, or who have come upon the land in person or through those in privity with them since the 15th of March, 1910. The department proposes to appoint an officer who shall be authorized to pass upon the question of the existence of *prima facie* Mexican title and of the fact of actual possession under such title prior to March 15, 1910, and to report to the department the cases wherein ejectment should be prevented by virtue of international comity, whereupon the necessary action will be taken by the appropriate officers of the department of Justice, as has been done in the past. It is not doubted that the Mexican Government will at once perceive that this arrangement is fully responsive to the true intent of its original request, that it is necessary to enable the United States to continue to exercise the *de facto* jurisdiction which it has hitherto exercised over the tract in question since its formation; and that it is entirely consistent with the contention of the Mexican Government as to the theoretical status of the land pending the final settlement of the question of sovereignty. In conclusion this Government can not too strongly urge the acceptance of these temporary arrangements as a practical temporary solution of a situation which has become impossible.

Second. The Government of the United States greatly regrets that, while impressed with the convenience of a settlement of the boundary by exchange of territory upon the theory of interpretation of the boundary line, it finds it quite impracticable to agree upon the basis of exchange involving relinquishment by the United States of San Elizario, as well as Horcon and the portion of American territory now on the Mexican side of the present channel near El Paso.

Third. As indicated above the Government of the United States is still unable to persuade itself that a new treaty in the sense suggested by the communications of the Mexican Embassy would be of a mutual benefit sufficient to justify its negotiation.

Fourth. Adverting to the general suggestion of arbitration, the Government of the United States proposes that the Governments of the United States and Mexico proceed forthwith to submit, each to the other, a list of three Canadian jurists, any one of whom would be a satisfactory umpire; that thereupon the two Governments seek to agree informally upon one name from these lists, and that, in the event of failure to do so the Government of the Dominion of

Canada be asked to make a selection from the six jurists named. It is proposed that thereupon the two Governments resubmit the question of the sovereignty of the Chamizal tract to determination by the present joint commission acting with the Canadian jurist so selected as the third member with a casting vote. It is further proposed that a convention in this sense be so framed that the decision of the joint commission, enlarged as above, shall be arrived at within four months.

Doing myself the honor to lay these proposals before your excellency, I can not too earnestly request for them the earliest and most considerate attention, and I take advantage of this opportunity to renew to your excellency the assurances of my highest consideration.

P. C. KNOX.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 153.]

MEXICAN EMBASSY,
Washington, April 16, 1910.

MOST EXCELLENT SIR: Referring to your excellency's note No. 208, of March 22 last, relative to the question of sovereignty in El Chamizal, and comp'ying with my Government's special instructions, I have the honor to advise your excellency that the department of foreign relations of my country will give precedence to the consideration of the proposals set forth in your excellency's note above referred to and that the result, which will aim to bringing the Chamizal question to an end, will be communicated to your excellency as soon as possible.

I renew, etc.,

F. L. DE LA BARRA.

The Department of State to the Mexican Embassy.

NOTE VERBALE.

DEPARTMENT OF STATE,
Washington, May 14, 1910.

In view of the vital importance to the citizens of both countries of a speedy settlement of the difference between the two Governments regarding the sovereignty and title of the Chamizal tract; of the constant danger of some untoward circumstance growing out of the present situation which might disturb the harmonious relations of the people of Juarez and El Paso; and of the assurances which the Department of State has made to the citizens of El Paso that it would use every effort to expedite a settlement of this matter, the department ventures to request that the subject be recalled by the Mexican embassy to the attention of the Mexican foreign office, by telegraph.

In this connection reference is respectfully made to the department's note No. 208, of March 22, 1910, and to the Mexican embassy's note No. 153, of the 16th ultimo, in reply.

Memorandum from Mexican Embassy.

[Translation.]

MEXICAN EMBASSY,
Washington, June 9, 1910.

The Ambassador of Mexico has the honor to forward to the most excellent Mr. Knox, Secretary of State, the appended note, to which he referred at to-day's interview, and begs leave to remind him that his excellency was pleased to offer to send him the text of the draft of convention which is to serve as a basis for the negotiations relative to El Chamizal.

The Mexican Ambassador to the Secretary of State.

[Translation.]

No. 366.]

MEXICAN EMBASSY,
Washington, June 9, 1910.

MOST EXCELLENT SIR: In accordance with the instructions I received to-day, I have the honor to inform your excellency that my Government accepts in general the propositions contained in your department's note No. 208, of March 22 last, relative to the maintenance of the status quo in El Chamizal and to the solution by means of arbitration of the question of sovereignty over the said tract.

My Government, which as early as 1907 proposed to that of the United States recourse to arbitration, as may be seen from this embassy's note of July 19 of that year, is gratified at having this legal mode resorted to for the solution of so delicate a question.

The department of foreign relations of my country takes notice that the American Government, while calling the exchange of territory proposed by Mexico under the interpretation of existing treaties convenient, does not bring itself to accepting the exchange or deeming it necessary to conclude a new boundary treaty.

The Government of Mexico regards as nonsubsisting the propositions made by both countries prior to your excellency's note of March 22 last, and declares, through this embassy, that it accepts arbitration in the form described in the said note, as well as the terms suggested for the maintenance of the status quo in El Chamizal, provided that the decisions of the commissioner to be designated by the Department of State shall have but a provisional character and shall not impair the rights that the interested parties may have on the land.

My Government further desires that the said commissioner will seasonably communicate a copy of his decisions to the Mexican delegate on the International Boundary Commission.

Cordially rejoicing in this further step toward the friendly solution of this troublesome question in accordance with the principles of justice, I take pleasure, etc.,

F. L. DE LA BARRA.

The Secretary of State to the Mexican Ambassador.

No. 260.]

DEPARTMENT OF STATE,
Washington, June 17, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of the memoranda of your embassy, dated May 18 and June 9¹ last, and of your note No. 366 of June 9, inclosed with your embassy's memorandum of the same date.

This Government learns with great satisfaction that your excellency's Government accepts arbitration in the form proposed in this department's note No. 208, of March 22 last, as well as the terms suggested for the maintenance of the status quo in the Chamizal tract pending the arbitration. Your excellency adds the proviso that "the decisions of the commissioner to be designated by the Department of State shall have but a provisional character and shall not impair the rights that the interested parties may have on the land." By this the department understands your excellency to mean that the decision of the commissioners designated by this department shall have force and effect only pending the arbitration and shall have no effect whatever as regards the ultimate title to the lands in question after the decision of the international commission. This was the meaning intended to be conveyed by the department's note of March 22, and this Government therefore accepts in this sense the proviso suggested by your excellency. This Government will take pleasure in instructing the commissioner, who will be designated at once, seasonably to communicate a copy of his decisions to the Mexican delegate on the International Boundary Commission.

Referring to our conversation and to my promise to hand you a draft for a convention which may serve as a basis for the proposed convention for the submission to arbitration of the Chamizal case, I beg leave to inclose herewith such a draft² which I have endeavored to draw in such a manner as to depart as little as possible from the provisions of the convention of 1889 providing for the International Boundary Commission. It is hoped that the provisions of this draft will be readily understood and will be acceptable to your excellency's Government, and the department will be happy to discuss them with the embassy at any time. In view of the early adjournment of the Senate of the United States, to which it will be necessary, in accordance with the constitutional requirement, for the Executive to submit this convention for its advice and consent, I beg to suggest that your excellency call upon me at your convenience in order that we may communicate to each other the respective lists of three Canadian jurists, as provided in department's note of March 22, 1910, which provision the department understands to have been assented to by your Government. The department believes that it will be found that we shall have no difficulty in agreeing upon an umpire in the course of an informal conversation.

The department most cordially reciprocates your felicitations upon this further evidence of the neighborly good understanding between our two Governments, which has once more enabled us to solve our differences in a manner which is not only satisfactory as

¹Not printed. ²Not printed. Treaty as proclaimed will be printed in Foreign Relations, 1911.

regards the immediate matter in controversy, but also adds another landmark in the history of arbitration in which the two Republics have borne so distinguished a part.

Accept, etc.,

P. C. KNOX.

The Secretary of State to the Mexican Ambassador.

No. 261.]

DEPARTMENT OF STATE,
Washington, June 27, 1910.

EXCELLENCY: Referring to previous correspondence, particularly to the department's note No. 208, of March 22, 1910, reviewing the circumstances in connection with the dispute between the United States and Mexico over the sovereignty of the Chamizal tract, and proposing that the question be submitted to arbitration, I have the honor to inclose herewith a copy of a letter, dated to-day and addressed by the department to Mr. Wilbur Keblinger, American commissioner on the Commission for the Study of the Equitable Distribution of the Waters of the Rio Grande and Colorado Rivers, designating him as the officer to pass on the question of the existence of prima facie Mexican title and of the fact of actual possession under such title on March 15, 1910, in cases where legal proceedings looking toward ejectment are threatened or undertaken.

Accept, etc.,

P. C. KNOX.

[Inclosure.]

The Secretary of State to Mr. Wilbur Keblinger.

DEPARTMENT OF STATE,
Washington, June 27, 1910.

SIR: The department incloses herewith a copy of its note No. 208, of March 22, 1910, to the ambassador of Mexico at this Capital, reviewing the circumstances in connection with the dispute between the United States and Mexico over the sovereignty of the Chamizal tract and proposing that the question be submitted to arbitration. Your attention is particularly called to that passage in the note in which the department says:

The department proposes to appoint an officer who shall be authorized to pass upon the question of the existence of prima facie Mexican title and of the fact of actual possession under such title on March 15, 1910, and to report to the department the cases wherein ejectment should be prevented by virtue of international comity, whereupon the necessary action will be taken by the appropriate officers of the Department of Justice as has been done in the past.

The department takes pleasure in designating you as the officer in question, and you are accordingly authorized, in case you are so requested either by the Mexican commissioner of the International Boundary Commission or by any person or persons in the Chamizal tract against whom legal proceedings looking toward ejectment are threatened or undertaken, to pass upon the questions as to whether or not such persons are claiming under prima facie Mexican title, and whether or not "they or their predecessors in interest were in actual occupation of the lands so claimed on March 15, 1910." In case you find, first, that any claimant claims under prima facie Mexican title, and, second, that such person or his predecessors in interest were in actual possession of the land so claimed on March 15, 1910, you will report your findings in full to the department, together with such an abstract of the evidence in the case as you may deem necessary to the end that the department may request the appropriate action through the Department of Justice. In case immediate ejectment proceedings are threatened so that there is no time for reference of the matter to the department, you will act upon your own responsibility, and if you deem that the nature of the case so requires you will request the United States district attorney or his local assistant to take such

action as may be deemed appropriate. In cases of importance or doubt where there is no time for a written report to the department, you will consult the department by telegraph when practicable.

The department feels that your familiarity with the matters in controversy and with the local conditions at El Paso should enable you to exercise proper discretion in the handling of the various cases which may arise, and that you will always bear in mind the desirability of maintaining amicable relations between the citizens of the United States and Mexico pending the final arbitration of the Chamizal controversy under the proposed convention between the United States and Mexico.

I am, etc.,

P. C. KNOX.

EXTRADITION OF HELIODORO GARCIA FROM MEXICO TO THE UNITED STATES.

REARREST OF FUGITIVE AFTER EXPIRATION OF 40-DAY DETENTION PERIOD.

File No. 212.11G16/2.

Ambassador Wilson to the Secretary of State.

No. 42.]

AMERICAN EMBASSY,
Mexico, April 15, 1910.

SIR: Pursuant to the department's telegraphic instruction of April 14,¹ of the 14th instant, received to-day, I have the honor to report that I have requested the provisional arrest and detention of Jacinto Garcia and Heliodoro Garcia, charged with murder in California, who are supposed to be at Camargo, Chihuahua, and Jalostotitlan, Jalisco.

I have, etc.,

HENRY LANE WILSON.

File No. 212.11G/6.

Ambassador Wilson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, April 29, 1910.

Reports that the foreign office in a note received to-day, advises him that Heliodoro Garcia has been arrested. Adds that detention dates from the 23d instant.

File No. 24172/6.

The Secretary of State to Ambassador Wilson.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 1, 1910.

Informs him that the California authorities find it impossible to convict Leodoro Garcia, who is now in jail under provisional detention at Jalostotitlan, Jalisco, under name of Eledoro Garcia, of murder. Says that a new warrant of arrest has been issued for

¹ Not printed.

Leodoro Garcia for crime of assault with intent to commit murder committed in California, April 25, 1909, upon person of Louis Manzo. Directs him immediately to request provisional arrest and detention on this charge.

File No. 212.11G16/9.

Ambassador Wilson to the Secretary of State.

No. 86.]

AMERICAN EMBASSY,
Mexico, June 8, 1910.

SIR: Referring to the department's telegraphic instruction, June 1, of the 1st instant, I have the honor to inclose, for the department's information, copy and translation of a note from the foreign office of yesterday, and copy of my reply thereto of to-day, with regard to the provisional detention of Leodoro Garcia, charged with assault with intent to commit murder.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1—Translation.]

The Minister for Foreign Affairs to Ambassador Wilson.

No. 31003.]

FOREIGN OFFICE,
Mexico, June 7, 1910.

MR. AMBASSADOR: I have received your excellency's note, dated the 4th instant in which with reference to a previous note, dated April 15, you are pleased to advise me that the crime for which Heliodoro Garcia has been accused in California is assault with intent to commit murder, but not for murder, for which his provisional arrest was requested.

In reply, I have the honor to advise your excellency that as the 40 days established by the treaty in force, counting from the date of the provisional arrest of the fugitive, have expired, without the extradition documents having been presented, this department finds itself obliged to place the fugitive referred to at liberty, in compliance with Article X of the same treaty.

I avail, etc.,

ENRIQUE CREEL.

[Inclosure 2.]

Ambassador Wilson to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Mexico, June 8, 1910.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, No. 31003, of yesterday, wherein you advise me than the 40 days of provisional detention under which Heliodoro Garcia was held on the charge of murder having expired, your excellency's government has deemed it necessary to place the fugitive at liberty.

As your excellency will note from a reference to my communication of the 4th instant,¹ the provisional detention of Garcia was requested on the charge of assault with intent to commit murder, and I have the honor to request that your excellency advise me whether his apprehension on this charge can be effected.

As your excellency will note from a reference to the embassy's No. 670, of April 17, 1909,² the American Government holds that a man may be rearrested and held until the case may be acted upon by the proper judicial authorities, and attention was called to the fact that rearrests have been made in cases where the Mexican Government has failed to get the papers into the hands of the Washington Government

¹ Not printed.

² See Foreign Relations, 1909, p. 422.

within the limits of the 40-day period. This was in connection with the extradition of Juan de Dios Rodriguez, charged with murder. Notwithstanding that the formal proofs were not presented until 27 days after the prescribed period had elapsed, your excellency's Government, in accordance with the representations made by my Government, ordered an extension of the detention period, and granted the extradition of Rodriguez; and Mr. Mariscal, in his note of April 12, 1909, acquiesced in the policy of the United States in the following words [translation]:

In accordance with my note, dated the 11th of last February, the period of time for the detention of the fugitive, according to Article X of the treaty, expired on the 5th of last March; but as a favor, to the Government of the United States, and to the worthy personal representation made by your excellency, the same shall be admitted and shall be sent to the district judge in due time, feeling certain that the Government represented by your excellency will grant to the Government of Mexico reciprocity in any similar case.

In view of the above, I have the honor to request the provisional arrest and detention of Heliodoro Garcia on the charge of assault with intent to commit murder.

I avail, etc.,

HENRY LANE WILSON.

File No. 212.11G/10.

Ambassador Wilson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, June 21, 1910.

Refers to the embassy's No. 86 of June 8, and states that the foreign office asks when the proofs against Heliodoro Garcia may be presented.

File No. 212.11G16/13.

Ambassador Wilson to the Secretary of State.

No. 101.]

AMERICAN EMBASSY,
Mexico, June 21, 1910.

SIR: Referring to my No. 86, of the 8th instant, and to my telegram of to-day, I have the honor to inclose, for the department's information, copy and translation of a note received to-day from the foreign office, and copy of my reply thereto, relative to the provisional arrest and detention of Heliodoro Garcia, charged with assault with intent to commit murder in California.

I have, etc.,

HENRY LANE WILSON.

[Inclosure 1—Translation.]

The Minister for Foreign Affairs to Ambassador Wilson.

No. 32479.]

FOREIGN OFFICE,
Mexico, June 18, 1910.

MR. AMBASSADOR: Referring to the embassy's note, dated the 8th instant, I beg leave to ask that the final proofs in support of the extradition of Heliodoro Garcia be sent to this department, because whatever the legal classification of the offense may be, the 40 days established by the treaty for the presentation of said document has expired in excess. In case that the embassy has not said documents I shall be pleased to learn when the same may be had.

I avail, etc.,

ENRIQUE C. CREEL.

[Inclosure 2.]

Ambassador Wilson to the Minister for Foreign Affairs.

No. 295.]

AMERICAN EMBASSY,
Mexico, June 21, 1910.

MR. MINISTER: I have the honor to acknowledge the receipt to-day of your excellency's note of the 18th instant (No. 32479) with reference to the provisional detention of Heliodoro Garcia, who is charged with assault with intent to commit murder in California.

Your excellency requests to be advised whether the proofs, as required by treaty, have been received by the embassy; and in the event that they have not, asks to be informed when they can be presented. Your excellency furthermore states that the 40-day detention period, as prescribed by treaty, has expired.

With regard to the formal proofs I have the honor to advise your excellency that I have this day requested the necessary information from my Government, which will be communicated to your excellency in due time.

With regard to the second point in your excellency's note, I regret that your excellency differs from the principles accepted by the department for foreign affairs in its note of April 12, 1909, which was an acquiescence in the policy of extending the 40-day provisional detention period when, because of distances, unavoidable delays in securing testimony, or for some other unforeseen reason, it was not possible to submit the proofs within those limits; because while it is true that Article X of the extradition treaty does prescribe a 40-day detention period, your excellency will agree that the extradition treaty was intended primarily to serve the ends of justice; and if a fugitive, against whom there is a clear case, is allowed to go free because of a strict adherence to this article, it is apparent that the true ends of justice will not be furthered; and furthermore, while the crime is of course primarily an attack on society in the place where it was committed, it is nevertheless certain that a criminal at large constitutes a menace to and an offense against the society of any place where he may be found, which goes to show, and I am sure your excellency will agree with me, that justice is not confined to one community, but is international; and that by extradition not only is the justice of the place where the crime was committed satisfied but also the justice of the place where the fugitive may be found is vindicated.

It is, however, not necessary to discuss at length the various equities, acquiesced in by your excellency's Government, of this policy, because, strictly speaking, the question of an extension of the 40-day period has no bearing on the case now under consideration.

As your excellency will note, my request of April 15 asked for the provisional arrest and detention of Heliodoro Garcia on the charge of murder, on which charge he was apprehended on April 23. My note of June 4, however, withdrew this charge, and asked for his provisional arrest and detention on the charge of assault with intent to commit murder. After a careful study of the extradition treaty in force between your excellency's and my Government, I have not been able to find any provision prohibiting the rearrest of a fugitive on a second charge, whether the first one was not proven or whether, as in this case, it was withdrawn; and inasmuch as paragraph 21 of Article II of the extradition treaty declares assault with intent to commit murder to be an extraditable crime, it would appear that even if the 40-day detention clause were to be interpreted literally, Garcia's detention can only be considered as commencing prior to June 4, which was the date on which his apprehension on the charge of assault with intent to commit murder was requested.

I have entered thus fully into a discussion of this case for the reason that I fear my two previous notes may not have been entirely understood; and I have the honor to request the provisional arrest and detention of Heliodoro Garcia on the charge of assault with intent to commit murder in California.

I avail, etc.,

HENRY LANE WILSON.

File No. 24172/10.

The Acting Secretary of State to Ambassador Wilson.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 22, 1910.

Mr. Wilson refers to the embassy's telegram of the 21st instant, and states that the governor of California has been advised of its con-

tents. Instructs him to insist that Garcia be rearrested and detained for treaty period on new charge of assault with intent to commit murder. Calls attention to department's April 10, 1909,¹ and directs him to advise the governor of California when new period of detention will expire.

The Acting Secretary of State to Ambassador Wilson.

No. 61.]

DEPARTMENT OF STATE,
Washington, June 28, 1910.

SIR: The department is in receipt of your dispatch No. 86, of the 8th instant, inclosing a copy of a note from the minister for foreign affairs of Mexico, stating that, owing to the nonarrival of the extradition papers within the 40-day period of provisional detention, provided in the extradition treaty between the United States and Mexico, Heliodoro Garcia, whose provisional arrest was requested on the charge of committing murder in the State of California, was released from custody. You inclose also a copy of your answer to the minister's note, requesting that Garcia be rearrested on the charge of assault with intent to commit murder. The department's telegram of the 22d instant,² is hereby confirmed.

While this department maintains its position that the Mexican Government should, on request of this Government, rearrest and detain a fugitive for the treaty period after the expiration of the first detention period, even when no new complaint has been laid against the accused, as was fully set forth in the Department's instruction of April 10, 1909, it is to be noted that the facts in the Garcia case do not present the extreme case, inasmuch as a new complaint has been filed and a warrant for arrest of Leodoro Garcia issued thereon for the lesser offense of assault with intent to commit murder.

I am, etc.,

HUNTINGTON WILSON.

File No. 212.11G16/16.

Ambassador Wilson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Mexico, July 14, 1910.

Mr. Wilson states that the foreign office has informed him of its inability to hold Heliodoro Garcia beyond the expiration of the second period of 40 days, which, according to verbal statements of the minister for foreign affairs, will make in all a detention period of 80 days, counting from the day of the first arrest. Mr. Wilson asks to be advised when papers may be expected.

¹ See Foreign Relations, 1909, p. 417.

² Supra.

File No. 24172/16.

The Acting Secretary of State to Ambassador Wilson.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 15, 1910.

Mr. Adeo refers to Mr. Wilson's telegram of the 14th instant and informs him that the extradition papers of Heliodoro Garcia were mailed on the 12th instant, and directs that if detention period on the second arrest expires before arrival of papers he earnestly endeavor to arrange that fugitive be held to await papers or be rearrested, using argument heretofore sent in this case. Mr. Adeo points out that the charge on which the second arrest was requested is an entirely separate offense from that on which the fugitive was first arrested, committed at different place and time of day, and against different party, so that as regards detention period the second arrest should have no relation to first arrest.

File No. 212.11G16/17.

*Ambassador Wilson to the Secretary of State.*AMERICAN EMBASSY,
Mexico, July 19, 1910.

SIR: I have the honor to acknowledge the receipt to-day of the department's No. 74, of the 12th instant,¹ inclosing the papers in the extradition case of Heliodoro Garcia, charged with assault with intent to commit murder in the State of California.

These papers have to-day been presented to the department for foreign affairs, and the extradition of the fugitive has been requested in accordance with treaty stipulations. In case extradition is granted Mr. Cervantes will be promptly advised.

I have, etc.,

HENRY LANE WILSON.

File No. 212.11G16/18.

Ambassador Wilson to the Secretary of State.

No. 232.]

AMERICAN EMBASSY,
Mexico, November 3, 1910.

SIR: With reference to the department's instruction, No. 74, of July 12, 1910, directing me to request the extradition from Mexico of Heliodoro Garcia, who is charged with assault with intent to commit murder, and is wanted by the authorities of the State of California, I have the honor to transmit to the department herewith copy in translation of a note from the Mexican foreign office, of October 27 last, stating that the President has granted his extradition. It is pointed out that Garcia has the right to request amparo within three days after he is notified by the judge that he is to be extradited. When I am informed that no amparo has been asked for, or granted if asked for, I shall again communicate with the department.

I have, etc.,

HENRY LANE WILSON.

¹ Not printed.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Ambassador Wilson.*FOREIGN OFFICE,
Mexico, October 27, 1910.

MR. AMBASSADOR: I have the honor to inform your excellency that the President of the Republic has been so good as to declare that the extradition of Heliodoro Garcia, requested by the embassy, should be and is granted.

On this date a notice of the permission is being forwarded to the district judge of the State of Jalisco, in order to carry out the corresponding procedure. Included in this procedure is the right that the prisoner has to request Federal amparo within three days after he has been notified by the judge.

I avail, etc.,

ENRIQUE C. CREEL.

File No. 212.11G16/18.

*The Secretary of State to Ambassador Wilson.*DEPARTMENT OF STATE,
Washington, November 14, 1910.

SIR: The department acknowledges the receipt of your dispatch, No. 232, of the 3d instant, in which you report that the President of Mexico has granted the extradition of Heliodoro Garcia, who is charged with assault with intent to commit murder, and who is wanted by the authorities of the State of California.

A copy of your dispatch has been forwarded to the governor of California for his information.

I am, etc.,

P. C. KNOX.

MESSAGE OF THE PRESIDENT OF MEXICO TO THE MEXICAN CONGRESS.

File No. 812.032.

Ambassador Wilson to the Secretary of State.

No. 194.]

AMERICAN EMBASSY,
Mexico, September 20, 1910.

SIR: I have the honor to inclose to the department herewith a copy and translation in duplicate of the message of President Diaz to Congress on the occasion of its convening on the 16th instant. The event was made specially noteworthy by the fact that the resident and special diplomatic representatives, with their suites, were invited to be present, and the exercises were carried out with particular formality.

In this message the President deals, first, with Mexico's foreign relations and expresses the hope that the Pan American conference at Buenos Aires will result in great benefit to the American Continent. He observes that an agreement has been reached with the American Government by which the long-standing Chamizal question is to be arbitrated; and he mentions the fact that the growing commerce between Mexico and Germany has necessitated the appointment of additional consular officers in the latter country.

Passing from the business of foreign relations the President then takes up consecutively matters concerning the departments of

interior, justice, public instruction and fine arts, fomento, communication and public works, finance, and war and navy.

I have, etc.,

HENRY LANE WILSON.

[Inclosure—Extracts.]

President's message.

Foreign relations—Celebration of the centennial.—The presence in our midst, in connection with the celebration of the centenary of our independence, to which I but now alluded, of distinguished special representatives of the foreign nations with which Mexico has diplomatic relations, affords unequivocal evidence that those relations are in every respect cordial and satisfactory and that the efforts of our country for years past have reaped their reward by winning for her at last that place in the concert of nations to which she had long been entitled, a result which, gratifying as it is, should make us resolve to carry still higher the good name of the Republic.

Pan American conference.—On July 12 last, according to agreement among the nations concerned, the Fourth International Conference of American States convened at the city of Buenos Aires, and its labors were prolonged into the second half of the month of August. Time enough has not yet elapsed for the resolutions of the conference to be known in detail, but, in view of the spirit informing them and the acknowledged competence of the delegates to the assembly, there is every reason to hope that those resolutions will be highly beneficial to the countries of this continent.

Treaty with Denmark.—A convention having for its object the development of commercial relations between Mexico and the Kingdom of Denmark was signed in this capital by duly authorized plenipotentiaries on April 3 last. The convention in question has already been approved by the senate and the ratifications will shortly be exchanged.

Promulgation of Russian treaty.—The special commercial convention between Mexico and the Russian Empire, to which I referred in my message of April 1 last, was promulgated in this capital on 22d of last June.

Postal convention with Italy.—The convention concluded between Mexico and the Kingdom of Italy on December 4, 1909, for the direct exchange of postal parcels without declared value, was in like manner promulgated on 21st of the last May.

Telegraphic convention with Belize.—The senate was pleased to approve, on May 28 last, the convention negotiated and signed in this capital by duly authorized plenipotentiaries on 27th of the same month of May, for the connection of the federal telegraph lines of Mexico with the telegraph lines of British Honduras.

Mexico at Edward VII's funeral.—A special mission, consisting of two ministers plenipotentiary, appointed to represent the Government and people of Mexico at the funeral of King Edward VII of England, discharged satisfactorily the duty assigned to it.

Centennial commemorations abroad.—Instructions have been conveyed to the legations of Mexico in foreign countries to hold suitable celebrations in commemoration of the centenary of our independence.

New consular act.—The Executive has presented to the chamber of deputies a new consular bill, of which the approval during the present period of sessions is to be desired, as it will give a needed impetus to this important branch of the administration.

New consuls in Germany.—The ever-growing cordiality of the relations between Mexico and the German Empire has necessitated an increase in the number of our consular representatives in that Empire, and recently a new consul general was appointed, on which occasion the former jurisdiction of our only consul general hitherto residing in Germany, with headquarters at the port of Hamburg, was divided into two.

Consular conventions.—Consular conventions are being negotiated at the present time with Italy, Holland, and Turkey.

The Chamizal arbitration.—Our ambassador in the United States of America, acting under special instructions from his Government, affixed his signature at Washington on June 24 last, to a convention for the settlement by arbitration of the long-standing, important, and delicate Chamizal question; and in order that this convention may be carried out it will in due season and according to constitutional precept, be submitted to the senate for consideration and discussion.

The "bancos" of the Bravo River.—In the course of the investigations which the International Boundary Commission has been conducting in the lower Bravo River, 23 new "bancos" were found, which will be dealt with according to the stipulations

of the convention between Mexico and the United States of March 20, 1905, for the elimination of such "bancos" in the Bravo and Colorado Rivers.

International bridge convention.—A convention was signed in this city on August 9 last, by the minister of foreign relations and the minister plenipotentiary of the Republic of Guatemala, for the erection of an international bridge over the Suchiate River; and this convention will also, for constitutional purposes, be referred to the senate.

The centennial celebration.—The executive considered that the first centenary of the proclamation of our independence should be commemorated with due pomp and solemnity, and to this end not only was a national centennial commission appointed to organize a series of festivities and to designate local committees throughout the Republic for the same purpose, but numerous entertainments and ceremonies have been arranged under official auspices, including the dedication of important institutions, edifices, public improvements, and monuments of art. The great monument of independence was dedicated to-day, and the monument erected in honor of Juarez will be dedicated shortly.

AUTHENTICATION OF EXTRADITION PAPERS BY CONSULAR OFFICERS.

File No. 12208/4.

The Mexican Ambassador to the Secretary of State.

No. 522B.]

[Translation.]

MEXICAN EMBASSY,
Washington, March 2, 1910.

MOST EXCELLENT SIR: With a view to recording the interpretation that has been put upon the provision of the extradition treaty in force between our two countries bearing on the subject, I have the honor, by direction of my Government, to address your excellency to the end of establishing by means of an exchange note that, in accordance with the practice which already obtains, the authentication by consuls residing in the country from which extradition is demanded is sufficient to have the papers upon which the request is based considered as duly authenticated.

I beg to cite to your excellency the case of Rafael Rodriguez, alias Manuel Hernandez, whose extradition was demanded in July, 1908, by the governor of Texas of the governor of Tamaulipas, who accepted the papers authenticated by the Mexican consul.

Trusting that your excellency will concur in the established practice of having the extradition papers authenticated by either the embassy or consul of the country from which extradition is demanded, I renew, etc.,

F. L. DE LA BARRA.

The Secretary of State to the Mexican Ambassador.

No. 216.]

DEPARTMENT OF STATE,
Washington, April 13, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your note, No. 522 bis, of the 2d ultimo, in which you suggest an exchange of notes between your Government and that of the United States with a view to establishing by such exchange that, in accordance with the practice which you state already obtains, the authentication by consuls residing in the country by which extradition is demanded is sufficient to have the papers upon which the demand is based considered as duly authenticated.

The department regrets to say that it deems it inadvisable to exchange notes in the sense proposed in your note, since even if the department did exchange notes setting forth an understanding as suggested by you, such notes would not, so far as the internal affairs of this Government are concerned, have the status either of a treaty or of a law, but would be merely an executive interpretation of the treaty and of the Federal statutes. This would not be binding upon the courts of this country, which might at any time disregard the agreement incorporated in the notes, in which case it would not be possible for the department to control their decision. This is particularly true, since it is not entirely clear to the department that the contention which you make regarding the meaning of Article VIII of the treaty is the only one which may properly be placed upon it. In this connection you will observe that the first paragraph of Article VIII stipulates that consular officers may act "in the event of the absence of these [that is, the respective diplomatic agents of the contracting parties] from the country or from its seat of government," and it might well be contended that this stipulation of the first paragraph shall be carried over into the second paragraph of the article, which speaks of an authentication by the "minister or consul of the respective contracting party." At any rate the point seems so doubtful that a decision, either one way or the other, by the courts of either country could scarcely be regarded as improper. Therefore it would appear that such regulations as you suggest would, in order to be properly effective in this country, have to be made either by means of new legislation or by means of a formal treaty. The department regrets to say that for these reasons it feels that it would be unwise to exchange notes in the sense you suggest.

It might be remarked in passing that the present statutory provisions which control this question, so far as they affect extradition from the United States, are to be found in United States Revised Statutes, section 5271, as amended by section 5 of the act approved August 3, 1882 (United States Statutes at Large, vol. 22, p. 216), which reads as follows:

SEC. 5. That in all cases where any depositions, warrants, or other papers or copies thereof shall be offered in evidence upon the hearing of any extradition case under title 66 of the Revised Statutes of the United States, such depositions, warrants, and other papers, or the copies thereof, shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated, so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped; and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that any deposition, warrant, or other paper or copies thereof, so offered, are authenticated in the manner required by this act.

So far as the department is aware there is no reported case in which a court of the United States has passed upon the question as to whether or not, under this statute, authentication by an American consular officer stationed in a country where the American Government has a diplomatic representative, would or would not be sufficient. This department is of the opinion, however, that a consular officer of the United States, resident in a foreign country in which the United States maintains a diplomatic mission, is not authorized under this statute to authenticate extradition papers, and that were the question raised before the courts the courts would so interpret it.

You will understand, of course, that if your Government should take a different view regarding the meaning of the treaty or of this statute, the question can easily be tested in the courts by submitting to the committee magistrate extradition papers certified by an American consul, whereupon the magistrate will have to pass upon the question involved in your suggestion.

Accept, etc.,

P. C. KNOX.

TRANSLATION OF PAPERS IN EXTRADITION CASES.

File No. 124.126/5.

The Acting Secretary of State to Ambassador Wilson.

No. 133.]

DEPARTMENT OF STATE,
Washington, November 2, 1910.

SIR: The department acknowledges the receipt of your dispatch No. 220, of the 19th ultimo,¹ with which you inclose a memorandum, prepared by Mr. d'Antin, of the embassy, in which he suggests the advisability of the embassy's discontinuing the practice of translating into the Spanish language documents by which demands for extradition are made by the United States on the Government of Mexico. You express the opinion that such translations should be made by the Mexican foreign office.

In reply you are informed that the translation of papers in extradition cases is not a service which the surrendering Government should be called upon to perform. The demanding Government should furnish translations of the documents, and the cost of translation is one of the items of the expenses of extradition, to be borne by the Government seeking the extradition—by the Federal Government if the offense charged is against the Federal laws, and by the particular State of the Union when the offense is against the State laws.

I am, etc.,

ALVEY A. ADEE.

¹ Not printed.

MOROCCO.

ACQUISITION OF PROPERTY FOR AMERICAN MISSIONARIES IN MOROCCO AND RENTAL OF A HOUSE IN MOORISH QUARTER OF MEQUINEZ.

[Continued from Foreign Relations, 1909, p. 433.]

File No. 594/51.

Minister Dodge to the Secretary of State.

No. 150.]

AMERICAN LEGATION,
Tangier, December 31, 1909.

SIR: Referring to my dispatch, No. 122, of the 3d instant,¹ stating that I had received a note from the vizier for foreign affairs advising me that the Sultan had sent instructions to the governor of Mequinez urgently commanding him to secure there a house to be rented by the Gospel Missionary Union of Kansas City, I have the honor to inclose to you herewith a copy of a letter which I have now received from Rev. George C. Reed in answer to my letter² to him therein mentioned. The statement in it will be noted that after some delay the governor had informed him that he had been unable to find a house for these missionaries.

I have now written a further note to the vizier informing him of the governor's reply to Mr. Reed, and expressing my surprise thereat in view of my information that the governor could readily have found a suitable house if he had sincerely endeavored to do so. I have requested that further explicit orders might be sent him to execute the Sultan's former commands.

While adding that I will continue to keep the department advised as to the matter,

I have, etc.,

H. PERCIVAL DODGE.

File No. 594/51.

The Acting Secretary of State to Minister Dodge.

DEPARTMENT OF STATE,
Washington, January 24, 1910.

SIR: The department has received your No. 150 of the 31st ultimo, reporting the action taken by you to obtain compliance with the orders of the Sultan of Morocco to permit the missionaries of the Gospel Missionary Union to obtain a domicile in the Moorish part of Mequinez.

The president of the union has been advised of your action, the result of which is awaited by the department.

I am, etc.,

ALVEY A. ADEE.

¹ See Foreign Relations, 1909, p. 433.

² Not printed.

File No. 594/54.

Minister Dodge to the Secretary of State.

No. 241.]

AMERICAN LEGATION,
Tangier, April 11, 1910.

SIR: Referring to my dispatch, No. 150, of December 31 last, I have the honor to report that I was recently informed by Sid Mohamed Ben Mohamed El Guebbass, the Sultan's representative here, that he had just received a communication from Sid Aissa Ben Omar, the vizier for foreign affairs, advising him that new and urgent orders had been issued by the Sultan to the governor of Mequinez to grant at once and without further delay a house to the missionaries of the Gospel Missionary Union. Yesterday I received a letter from the Rev. George C. Reed, at Mequinez, in which he confirms this information, stating:

I am very glad indeed to inform you that your efforts have been successful and the Basha has finally given us a house in the Moorish quarter of Mequinez.

Mr. Reed further states that the missionaries have already moved into this house, which—

will make us quite a suitable place after certain necessary repairs are made, which we stipulated to have done at once, and to help defray the cost of which we advanced five months' rent, at \$4 per month. * * * Our coming into the city to live by orders of the Sultan has seemed to have a very good effect upon the people, and we believe has brought to a successful issue this long-standing case.

This house is one belonging to the Maghzen, and the lease given to the missionaries is for an indefinite time at the extremely low rental above mentioned.

This matter, which has been pending for some six years, would thus now seem to have been concluded satisfactorily to the missionaries of the Gospel union and I trust also to the department.

I have now requested Sid Guebbass to convey to the Sultan my thanks for the satisfactory settlement of this matter.

I am, etc.,

H. PERCIVAL DODGE.

File No. 594/54.

*The Secretary of State to Minister Dodge.*DEPARTMENT OF STATE,
Washington, April 29, 1910.

SIR: The department has received your No. 241 of the 11th instant relative to the order of the Sultan of Morocco causing the governor of Mequinez to grant permission for the missionaries of the Gospel Missionary Union to procure a residence in the Moorish quarter of the town, and is gratified at the result of your efforts.

The information contained in your dispatch has been communicated to Mr. Fisher, the president of the union.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

NETHERLANDS.

EXTRADITION PROCEEDINGS—EXPENSES.

File No. 24850.

Memorandum from the Netherlands Legation.

[Translation.]

No. 459.]

LEGATION OF THE NETHERLANDS,
Washington, June 3, 1910.

It appears from a communication of the Queen's Government that it would attach value to knowing what the expenses for the extradition of persons apprehended in America and extradited to the Netherlands under the extradition treaty concluded between the Netherlands and the United States generally consist of.

It would be of particular importance to know what those expenses are when the whereabouts of the said persons is known and makes it unnecessary to search for them.

Having been instructed to furnish its Government with the above-mentioned information, the royal legation of the Netherlands has the honor to have recourse to the obliging good offices in order to be enabled, if possible, to comply with its instruction in the near future.

It expresses in advance its thanks for such action as may be taken on this request.

File No. 24850/1.

The Acting Secretary of State to the Netherlands Chargé.

No. 74.]

DEPARTMENT OF STATE,
Washington, July 9, 1910.

SIR: Referring to your note of the 3d instant, in which you request information as to the probable expenses which would be incurred in extraditing a fugitive from the United States to the Netherlands, I have the honor to advise you that a letter, dated the 1st instant, has been received from the Acting Attorney General in which he states that the cost in extradition cases varies from several dollars to several thousand dollars, depending on the travel necessary to apprehend the fugitive, the length of time the defendant is held in custody, and the expenses attached to the attendance of witnesses, if there are any.

The Acting Attorney General gives the following items that usually occur in extradition cases, from which you may form an idea as to the cost:

Travel to serve warrant of arrest and subpoena for witnesses, 6 cents for each mile necessarily traveled.

Expenses endeavoring to arrest the defendant, not exceeding \$2 for each day's endeavor.

For services of warrant of arrest, \$2.

Transporting deputy, necessary guard, and defendant, 10 cents for each mile for each person.

Deputy marshal's attendance before the commissioner at the examination of defendant, \$2 for each day.

Committing, discharging, or bonding defendant, 50 cents for each.

Witness fees, \$1.50 for each day's attendance before the commissioner for each witness.

Mileage to witnesses, 5 cents for each mile traveled from the place of residence to the place of trial or hearing, and 5 cents for each mile returning.

Actual cost of prisoners' subsistence and medical attention.

In addition to the usual items above mentioned that occur in the accounts of United States marshals there are fees for the services of United States commissioners for issuing the process, conducting the examination, etc., and at times there are other costs that arise which are not herein mentioned as usual but which occur on account of the peculiar circumstances surrounding the particular case.

The department will be glad to furnish any further information you may desire relative to the cost in the extradition of fugitives from the United States.

Accept, etc.,

HUNTINGTON WILSON.

NICARAGUA.

REVOLUTION IN NICARAGUA.

ASYLUM—BLOCKADE—BOMBARDMENT—MEDIATION.

[Continued from Foreign Relations, 1909, p. 452.]

Vice Consul Caldera to the Secretary of State.

[Extract.]

No. 264.]

AMERICAN CONSULATE,
Managua, December 26, 1909.

SIR: I have the honor to report that on the 21st instant the new President, Dr. Jose Madriz, unanimously designated by Zelaya's Congress, was inaugurated.

After the ceremony at the Campo de Marte, the President's residence and office, Gen. Zelaya moved to his recently built home, called "The House No. 1," and by night Dr. Madriz decided to move from the hotel to the Campo de Marte.

On the 23d instant the Mexican minister proceeded to Corinto, and soon after his arrival at the port it was formally announced that the ex-President would leave that night for Corinto. A train was prepared and even his most intimate friends were made to believe that he was going by train, and so they went to the station to see him off. When tired of waiting they were surprised to see that the train started off alone, and only then noticed that the only little steamer on Lake Managua had noiselessly pulled off the wharf.

The next day it was made public that he had gone by lake steamer to Momotombo and from there to Corinto, where he quietly went on board of the Mexican gunboat *General Guerrero*.

The new President has now called the leaders from Granada and is trying to come to terms, starting by the appointment of a peace commission to go to Bluefields to treat with the revolutionists.

I have, etc.,

HENRY CALDERA.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, December 27, 1909.

Mr. Moffat reports that Jose Madriz, in a telegram dated 22d to Gen. Estrada, proposes a suspension of hostilities pending the arrival of a committee of honorable persons to discuss an amicable and equitable settlement of the present strife with the revolutionary leaders, meanwhile imploring him not to frustrate his efforts for the peace of Nicaragua; and that Estrada has answered that he is willing to meet

the commissioners, but that the revolutionary party will not accept the act of Congress in depositing the power with him—above all, denying its right to treat of the election of a President, and that they see in him the usurper of the rights of the people.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, December 30, 1909.

Mr. Moffat states that revolutionary Gens. Estrada, Chamorro, Fornos Diaz, and Secretary Diaz have indicated to him, in a jointly signed document, their earnest desire to send to Managua Gen. Fornos Diaz, who has very great influence with Madriz, anticipating to prevail upon Madriz in the interest of peace to accept Gen. Estrada as the provisional President of Nicaragua, thereby preventing any further strife and bloodshed.

Mr. Moffat says the signers are convinced that peace can be arranged and that the dignity and honor of all can be preserved.

Mr. Moffat also says that Fornos Diaz, as their commissioner of peace, who is without the means of transportation from Punta Arenas, Costa Rica, to Corinto, respectfully petitions the courtesy that a naval vessel be sent to Punta Arenas to receive and transport him to Corinto and return to Punta Arenas.

Adds that if the mission is a failure revolutionary operations will be resumed at once.

The President of Mexico to President Taft.

MEXICO CITY, *December 31, 1909.*

MY DEAR MR. PRESIDENT: I avail myself of the journey of the Ambassador D. Francisco L. de la Barra, who will leave this night direct for Washington, to express to you the great satisfaction with which my Government has viewed your favorable manner with respect to the refuge which was granted on board of a Mexican gunboat to the ex-President of Nicaragua, Mr. D. Jose Santos Zelaya, who solicited it from the legation of Mexico.

This attitude of yours in interpreting in a just way an act which could in no way mean a diminution of the sincere friendship which the people and the Government of Mexico feel for the people and the Government of the United States of America, will certainly corroborate the very pleasing belief that the multiple ties which cordially and happily bind together our respective countries are not easily to be broken.

There remains to me only to beg you to continue in well doing, receiving with your characteristic affability and to honor with your confidence the ambassador of Mexico, Mr. D. Francisco L. de la Barra, and that you may believe me your most devoted friend and obedient servant.

PORFIRIO DIAZ.

*The Secretary of State to Consul Moffat.**[Telegram—Paraphrase.]*

DEPARTMENT OF STATE,
Washington, January 3, 1910.

Referring to Mr. Moffat's telegram of December 30, Mr. Knox says that the department can not go further than to say that if Gen. Estrada and Dr. Madriz, as leaders of the factions, respectively, in control of the two portions of Nicaragua, should desire to have their representatives meet to discuss the general situation with a view to a satisfactory solution the Government of the United States would be quite willing to allow a vessel of the Navy to be used as the meeting place, and that such vessel could be permitted incidentally to transport the representative of Gen. Estrada from Punta Arenas to Corinto.

President Taft to the President of Mexico.

THE WHITE HOUSE,
Washington, February 5, 1910.

HIGHLY ESTEEMED MR. PRESIDENT: I beg to acknowledge the receipt of your valued letter of December 31, 1909, which your ambassador, Señor Don Francisco L. de la Barra, so courteously handed to me on January 21.

This letter I highly appreciate as a mark of the sincere friendship felt by yourself and the Government and people of Mexico for the Government and the people of the United States and as a proof of the relations of cordial and mutual regard which so happily unite the two countries.

Your sending to Washington, accredited in the capacity of confidential agent, such a distinguished representative as Señor Don Enrique C. Creel, your former ambassador here, I also esteemed as equally an evidence of your courteous and friendly disposition toward us. I received Señor Creel with much pleasure, and occasion arose for me to indicate briefly to him the attitude of the United States toward granting refuge to the ex-President of Nicaragua, Señor Don Jose Santos Zelaya. That attitude had been precisely and fully set forth to the confidential agent by the Secretary of State, and since you make reference to the matter in your courteous letter I have now requested the Secretary of State to cause our embassy in Mexico to hand to the foreign office a detailed statement of what was said on the subject to Señor Creel in Washington and communicated by Rear Admiral Kimball to the Mexican minister at Managua.

It is a source of great gratification, Mr. President, to me to know that you and your Government have viewed with satisfaction the attitude of this Government in regard to the refuge accorded to Señor Zelaya, and in conclusion I am happy to assure you that I shall in the future, as in the past, be happy to receive Señor Francisco L. de la Barra, your ambassador at this capital, with that high degree of cordiality which he deserves, both on account of his character, as your excellency's representative, and his personal talents and qualities.

Believe me, Mr. President, to be your cordial friend,

WM. H. TAFT.

The Secretary of State to Chargé Bailey.

No. 840.]

DEPARTMENT OF STATE,
Washington, February 5, 1910.

SIR: I inclose herewith for delivery by the embassy to the President of Mexico a letter from President Taft. This letter is in answer to one to President Taft from President Diaz, a copy and translation of which, with a copy of the former's reply, are inclosed for the embassy's information.

You are further instructed to hand to the Mexican minister of foreign affairs the inclosed memorandum and the office copy of President Taft's letter.

I am, etc.,

P. C. KNOX.

[Inclosure 1.]

MEMORANDUM.

The President has received a letter from the President of Mexico, in which the latter expresses the great satisfaction with which the Mexican Government has viewed the former's disposition in regard to the shelter accorded on board a Mexican gunboat to the ex-President of Nicaragua, Señor Jose Santos Zelaya, who had solicited it of the legation of Mexico, and in which he states that President Taft's attitude in appropriately interpreting an act which could in nowise import any disregard of the sincere friendship felt by the people and the Government of Mexico for the people and Government of the United States of America, confirms the belief, assuredly very gratifying, that the ties which cordially and happily unite the respective countries can not easily be loosened.

To this courteous letter President Taft has sent, through the United States Embassy in Mexico, acknowledgment and reply.

When President Diaz's confidential agent, Señor Creel, was in the United States and called upon the President on the 21st of December last, he informed the latter that his Government had offered refuge on board its gunboat to Señor Zelaya, but that, fearing the United States might not regard such action with favor, he had called to submit the matter to President Taft and to say that he would do anything the latter desired, and that the refuge would be withheld if President Taft should ask this or should intimate that such refuge would not be agreeable to the United States. Señor Creel stated that he would be glad to learn the wishes of the Government of the United States in this matter. He was requested to return at 10.30 that evening, when President Taft would endeavor to answer his inquiry.

Señor Creel returned at the appointed hour, and President Taft informed him that the Government of the United States was not disposed to express objection to such action by the Government of Mexico as might be, in the premises, sanctioned by international law. President Taft said that it was, however, to be clearly understood that while this attitude expressed no dissent it equally implied no approval or acquiescence.

On December 23 and 24, 1909, the Mexican minister to Nicaragua, then at Corinto, called upon the commander of the American naval squadron in Nicaraguan waters, Rear Admiral W. W. Kimball, in reference to the departure of ex-President Zelaya on board the Mexican gunboat *General Guerrero*, then in Nicaraguan waters, and on December 24 Rear Admiral Kimball addressed a letter to the Mexican minister, setting out the attitude of the Government of the United States in regard to the granting of this refuge, in confirmation of his previous conversations with the Mexican minister. To this letter, on December 30, 1909, the Mexican minister replied, informing the American naval commander that he had noted the contents of this letter and had copied it to his Government for its information.

A copy of Admiral Kimball's letter and a copy of the Mexican minister's reply thereto are attached.

It goes without saying that in the discussions with the Secretary of State, through whom the confidential agent conducted the business of his mission, the attitude of the Government of the United States, perhaps already sufficiently well known to the Government of Mexico, was still more precisely defined, not only upon the point which is the immediate subject of this memorandum, but also upon broader lines.

[Inclosure 2.]

Admiral Kimball to the Mexican Minister in Nicaragua.

U. S. S. ALBANY, FLAGSHIP,

Corinto, December 24, 1909.

SIR: I have the honor to address your excellency in confirmation of the matter discussed personally between us yesterday and to-day.

1. In order to avoid any possible misunderstanding that might arise through interpretation of spoken language, I have the honor to hand you this note defining my position in regard to the matter of the departure of Gen. Jose Santos Zelaya, late President of Nicaragua, from Nicaraguan territory in a Mexican ship of war under your orders.

2. You have informed me that you have no direct instructions from your Government as to giving Gen. Zelaya conveyance out of Nicaraguan territory, but that if I had no instructions from my Government to the contrary you would assume the responsibility of giving him such conveyance.

3. I informed you that I had no direct instructions of any kind in regard to the matter in question, and that my official attitude in regard to all Nicaraguan affairs is guided by the note of the United States Secretary of State of December 1, 1909.

4. I also informed you that I would not interfere with the action of the Mexican minister, which action would make the Mexican Government responsible for removing Gen. Zelaya from Nicaraguan territory and also for his possible return.

5. From the foregoing it will be clear that the conveyance of Gen. Zelaya out of Nicaraguan territory in a Mexican vessel of war under the orders of the Mexican minister is neither objected to nor acquiesced in by me.

Accept, etc.,

W. W. KIMBALL.

[Inclosure 3.]

*Mexican Minister in Nicaragua to Admiral Kimball.*LEGATION OF MEXICO,
Managua, December 30, 1909.

MR. REAR ADMIRAL: I have the honor to acknowledge to you the receipt of the note which you were pleased to place in my hands on the 24th instant, a little after 3 o'clock in the afternoon, and occasioned by the visit which I had the pleasure of making to you on board the *Albany* to repay a like attention which you showed me on the previous day at the city of Corinto.

In said note you refer to the conversation which we had, incidentally, concerning the possible journey of Gen. Jose Santos Zelaya, ex-President of Nicaragua, on board the Mexican man-of-war *General Guerrero*—a matter which you treated in writing, as you personally told me, for the sole object of explaining your neutral attitude in the face of my purpose to give asylum to said Señor Zelaya on board the *General Guerrero*, and to order said vessel to sail for Salina Cruz.

In reply, I have the honor to say to you that I have taken note of the contents of your communication, and I have transcribed it to my Government for its information.

Wherefore, I take pleasure in assuring you of my most distinguished consideration.

BARTOLOME CARBAJAL Y ROSAS.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, March 3, 1910.

Mr. Moffat reports that Gen. Estrada and the leaders of the revolution, having terminated a conference lasting several hours, have signified to him in a signed document their desire to terminate hostilities through the mediation of the United States, agreeing to terms of peace on the following bases: The United States to designate

a provisional President, who shall be other than Madriz or Estrada, the person named to immediately order an election of a constitutional President; the United States to supervise the free election of the same; neither Madriz nor Estrada to be a candidate. Adds that the Government of Nicaragua is to recognize the public debts incurred by the revolution, and that the abolition of unconstitutional monopolies is provided for.

The Secretary of State to Consul Moffat.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 8, 1910.

Mr. Knox acknowledges Mr. Moffat's telegram of March 3 and directs him to say to Gen. Estrada and the leaders of the revolution that the Government of the United States is not disposed at this time to make any suggestion in response to a unilateral representation.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, March 9, 1910.

Mr. Moffat reports that he has communicated department's telegram of March 8, 8 p. m., to Gen. Estrada, who has submitted the proposed peace bases to Madriz by telegraph, urging his acceptance.

The Acting Secretary of State to Vice Consul Caldera.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 14, 1910.

Mr. Wilson says that the following statement, given to the press to-day, is to be discreetly made public by Mr. Caldera:

The Secretary of the Navy has to-day ordered the return to Panama of the marines who, some time ago, were taken by the *Buffalo* to the vicinity of Corinto and by courtesy of the Government of Salvador had permission to encamp on an island in the Gulf of Fonseca. These marines had been held in readiness to protect American interests. The Navy Department, for sanitary reasons and in order to enable the *Buffalo* to resume its regular duties, has for some time desired to issue this order. Now that there is no fighting in progress in western Nicaragua, the Department of State has consented to the withdrawal of the marines, especially since, if their presence is needed, they could again be brought from Panama in three or four days. It is not necessary to add that this step has no bearing upon the question of the possible recognition of any Government of Nicaragua, which question was fully discussed in the Secretary of State's note to the then chargé d'affaires, Mr. Rodriguez, of December 1, 1909. Dr. Madriz has appealed to the President for recognition, but thus far the attitude of the United States remains unchanged.

¹ Same to American consulate at Bluefields.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, April 28, 1910.

Mr. Moffat reports that the following, dated at Cartago, April 27, has been received by Estrada:

Although the Central American court of justice only exercises its authority in a controversy between the States, it believes that, apart from its object as the tribunal of arbitration, it can for the determinate purpose of its institution allow its voice of peace and concord to be heard when, as it appears in Nicaragua, the afflictions of the war involve the Central American people. For this reason, in a resolution unanimously adopted to-day, the court resolved to address you and President Madriz, pleading that for love of country and for the good name of Central America you endeavor to immediately arrive at an understanding [which] will lead to peace. For this purpose the court wishes that you and the Government of his excellency Dr. Madriz agree to an armistice of eight days wherein to propose terms to this tribunal, which offers itself as a friendly mediator. Should this be favorably received by you, the court and Central America will have the glory of seeing the Nicaraguan question arranged within the family. By mail will be explained the considerations prompting the resolution herewith transmitted. We await reply by telegraph to present to the court in permanent session.

ALBERTO UCLES, *President.*
ALFREDO JIMINEZ, *Secretary.*

The Secretary of State to the President of the Central American Court of Justice.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 3, 1910.

Being advised that the Central American court of justice, acting in the spirit of the high purpose for which it was instituted, has, by unanimous resolution, made to Dr. Madriz and Gen. Estrada identic representations urging armistice and direct agreement with the friendly mediation of the court, even before receiving the text thereof I hasten to congratulate the honorable judges upon this high-minded idea, which I hope may contribute to the establishment in Nicaragua of those conditions of good government, progress, and prosperity which the United States, like the Republics of Central America, so greatly desires to see.

P. C. KNOX.

The President of the Central American Court of Justice to the Secretary of State.

[Telegram—Translation.]

SAN JOSE, C. R. (undated).
(Received May 11, 1910—7.40 p. m.)

The Central American court of justice acknowledges with sincere thanks your excellency's cablegram dated yesterday, by which you congratulate it on the mediation it has rendered to secure peace in Nicaragua, and highly appreciates your excellency's wishes for the establishment of a government of order and prosperity in Nicaragua.

ALBERTO UCLES.

Consul Moffat to the Secretary of State.

No. 142.]

AMERICAN CONSULATE,
Bluefields, Nicaragua, May 17, 1910.

SIR: I have the honor to communicate the text of the demand of Executive Delegate Julian Irias (commanding the Nicaraguan man-of-war *Venus*) upon Gen. Juan J. Estrada, general in chief of the revolution, for the surrender of the city of Bluefields and the Bluff.

The demand, dated May 16, 1910, was transmitted to Gen. Estrada through the medium of the U. S. S. *Paducah* and this consulate, being delivered on May 16, 1910, at 8 p. m.

EXECUTIVE DELEGATE,
ABOARD MAN-OF-WAR "VENUS,"
*Bluefields, May 16, 1910.*Gen. JUAN J. ESTRADA,
General in Chief of the Revolution:

In my capacity as executive delegate, with the functions of commander general of the Atlantic coast of Nicaragua, I hereby intimate to you in the most formal manner to surrender the fortress of the Bluff and of the city of Bluefields, offering you and to your followers every guaranty in accordance with the laws of war; and, in case of nonacceptance, I notify you categorically that I hereby grant unto you the term of 24 hours—that is to say, until 8 p. m. to-morrow—in order that the aged and infirm, women and children, and all other noncombatants may vacate the places above indicated. When the said mentioned time has expired, I shall proceed to open an attack and bombardment, directing fire upon the places occupied by military forces, endeavoring as much as possible not to permit private property to suffer, further declining from this moment all responsibility for the loss of blood or damage to property.

You should, complying with your duty, bring the present to the notice of all foreign subjects and noncombatant residents in order that they may retire to safe places without the line of danger.

JULIAN IRIAS, *Executive Delegate.*

I have, etc.,

THOMAS P. MOFFAT.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, May 17, 1910.

Mr. Moffat reports that the *Venus*, with 300 men and mounted guns, commanded by Irias, arrived at Bluefields May 16, 4 p. m.; that through medium *Paducah* and consulate he transmitted to Estrada demand for surrender of Bluefields and custom-house at Bluff within 24 hours, time to expire May 17, 1 p. m.; and that if demand is refused Bluefields and Bluff will be bombarded.

Mr. Moffat says that Commander Gilmer issued a proclamation to the generals of the commanding forces of Estrada and Madriz and commander of *Venus* declaring that, in furtherance of protecting lives and property of American citizens and noncombatants, foreigners, within town of Bluefields, it is demanded—

First. That there be no armed conflict in the city.

Second. That until a stable government is established only such armed force, not to exceed 100 men, will be allowed in Bluefields, necessary to police and preserve order.

Third. There being no armed men of revolutionary forces in Bluefields, no bombardment of city will be permitted, as it could result

only in destruction of lives and property of Americans and other foreign citizens.

Mr. Moffat states that Estrada has replied to Irias refusing surrender.

Adds that the steamer *Dictator*, from New Orleans, which has just entered port, has been served with notice of blockade by the commander of the *Venus*.

Consul Moffat to the Secretary of State.

No. 143.]

AMERICAN CONSULATE,
Bluefields, May 17, 1910.

SIR: I have the honor to communicate the text of the answer sent by Gen. Estrada through the minister general to Executive Delegate Julian Irias in reply to a demand for the surrender of the city of Bluefields and the Bluff.

The reply was transmitted through this consulate and the U. S. S. *Paducah* at noon on May 17, 1910.

HON. THOMAS P. MOFFAT,
American Consul, Bluefields.

SIR: Kindly transmit the following message to the U. S. S. *Paducah* for delivery to the *Venus*:

JULIAN IRIAS, S. S. *Venus*.

Under instructions of his excellency the President and commanding general, Gen. JUAN J. ESTRADA, I have to refer to your communication of yesterday, received this day at 10 a. m.

As the Government of his excellency Gen. Estrada regards as unconstitutional that over which Gen. Zelaya presided, neither in conformity with the desires of the Nicaraguan people nor in accord with the opinion of respectable and prominent men, among them Dr. Jose Madriz, who, in voluminous pages, demonstrated the unconstitutionality of the Zelaya Government, it can not at this time do other than to resist the pretensions of the perpetrators of the same Government, by which you have been invested with the powers of commanding general for the Atlantic coast as a delegate of the executive, to demand the surrender of the fortress at the Bluff and the city of Bluefields. I have to inform you that the Provisional Government is not only disposed to defend this fortress and city but to oust from this coast, as it will from the entire country, the usurpers of the public rights and powers.

ZENON R. RIVERA, *Minister General.*

With kind salutations and thanks for your courtesy, etc.,

ZENON R. RIVERA.

I have, etc.,

THOMAS P. MOFFAT.

The Secretary of State to Consul Olivares.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 19, 1910.

Mr. Knox says that the following paraphrase of the pertinent part of instructions telegraphed to-day to Commander Gilmer is sent to him to be made known to the Madriz faction:

The United States policy as to the blockade at Bluefields, whose announcement by the Madriz faction would seem to constitute a recognition on their part of the belligerency of the Estrada faction, will naturally be the same as that laid down in regard to the blockade at Greytown¹ by the Estrada faction. The Secretary of State then held that if the announced blockade or investment was effectively maintained and the requirements of international law, including warning to approaching vessels, were observed the United States Government would not be disposed to inter-

¹See Foreign Relations 1909, p. 455.

fere to prevent its enforcement, but reserved all rights in respect to the validity of any proceedings against vessels as prizes of war. In the present instance it should, however, be observed that a vessel which, by deceiving the authorities at a port of the United States, sailed therefrom in the guise of a merchantman, but had in reality been destined for use as a war vessel, by such act has forfeited full belligerent rights, such as the right of search on the high seas and of blockade.

Adds that a corresponding telegram has been sent to the consulate at Bluefields.

Consul Olivares to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, May 20, 1910.

Acknowledges telegram of May 19 and states that he has communicated paraphrase quoted to Madriz, who endeavored to sustain that his vessel sailed from a port of the United States under straightforward circumstances. Adds that all available military forces in his district are being hurried toward the Atlantic coast.

Consul Olivares to the Secretary of State.

No. 314.]

AMERICAN CONSULATE,
Managua, May 23, 1910.

SIR: I have the honor to refer to the department's cable of May 19, and to my cable in reply thereto of May 20.

Upon my having communicated to Dr. Madriz the paraphrase of the instructions telegraphed to Commander Gilmer, he stated that he regretted that the American authorities had been misinformed regarding the movements of his vessel, the *Maximo Jerez*, formerly the *Venus*. He asserted that the vessel had fully complied with the requirements governing the departure of vessels of her character from ports of the United States, and that she had sailed under perfectly straightforward circumstances.

I pointed out to Dr. Madriz that it was quite clear, from the nature of my Government's instructions to Commander Gilmer, that the authorities at New Orleans had been deceived regarding the circumstances connected with the voyage of the *Venus*.

Dr. Madriz then proceeded to explain that it had been well known to the authorities at New Orleans that the *Venus* carried arms and ammunition as cargo, and that no official objection had been offered to that fact.

He further recounted that upon the arrival of the *Venus* at Greytown the Nicaraguan authorities there raised the flag of this Republic over the vessel. He held that her voyage from New Orleans to Greytown having been accomplished in due form and without irregularity, the vessel was thenceforth free to engage in any business whatever, and that she was absolved from any obligations or restrictions which might previously have attached to her.

Dr. Madriz laid particular stress upon the assertion that the arming of the vessel had been accomplished in Nicaraguan waters sub-

sequent to placing her under the flag of this Republic. He stated that in view of the course that had been followed he felt sure that the laws of neutrality of the United States had not been violated in any respect, but, on the contrary, had been rigorously observed.

By way of response I inquired of Dr. Madriz if it were not a fact that the persons associated with the *Venus* knew, previously to and at the time of her sailing from New Orleans, that following her arrival at Greytown she was to be used as a war vessel.

Dr. Madriz endeavored to avoid making a categorical reply to my question and to the accompaniment of much verbiage, sought to sustain his theory that no responsibility could attach to the vessel by reason of any future plans she might have had so long as she observed the requirements of law and usage in connection with her voyage from New Orleans to Greytown.

There passed through Managua to-day, en route from Greytown to Corinto, a party of about 10 men, the majority of whom appeared to be Americans, representing a part of the crew which took the *Venus* from New Orleans to Greytown.

For several days past there has been much military activity in this district, all available troops being hurried in the direction of the Atlantic coast.

Incidentally, a rumor has been persistently circulated to the effect that Gen. Chavarria's column has been captured by the Estrada forces near Bluefields.

It is impossible to verify, with any degree of accuracy, the many rumors which are circulated regarding what is transpiring at the scene of hostilities, but if the rumored disaster to Chavarria be true, the department will undoubtedly have been advised of the fact from official sources at Bluefields.

I have, etc.,

JOSE DE OLIVARES.

Consul Moffat to the Secretary of State.

No. 157.]

AMERICAN CONSULATE,
Bluefields, May 31, 1910.

SIR: I have the honor to communicate the text of a communication addressed to Commander Gilmer by Irias re the intentions of the Madriz faction in control at the Bluff, dated May 31, 1910, also decree dated May 29, 1910, issued by Irias, in command at the Bluff. The contents were as follows:

THE DELEGATE OF THE EXECUTIVE,
The Bluff, May 31, 1910.

SIR: Although from the 29th of the current month I personally brought to your knowledge the agreement respecting the closing of Bluefields, because you had questioned me as to this matter, in order to bring the same to the knowledge of your Government, as you advised me, I permit myself to transcribe to you the respective decree, which says:

Julian Irias, delegate of the supreme executive power, in the use of his authorities, considering; That the Government of the Republic has taken effective possession of the fortress at the Bluff and its dependencies, amongst which is the customhouse; That for the prompt suppression of the insurrection led by Gen. Juan J. Estrada it becomes necessary to dictate measures of a transitory character that conduce to that end;

That the mind of the Government is that of not restricting but rather of amplifying the interior and exterior commerce of the Republic up to whatever is permitted by the obstacles placed in the way by the insurrection;

That the temporary or total closing of a port is a power inherent to the sovereignty of a country;

Be it decreed:

1. Let the port of Bluefields be closed for such time as may be strictly indispensable to establish order in the said city.

2. Policies of merchandise that may have left up to this date, or that may leave the port of origin up to the 1st of next month, inclusive, will be liquidated and paid at this customhouse, but from that date no merchandise of any class will be received destined to the said city of Bluefields.

3. All the merchandise that may come to the customhouse at the Bluff in transit for Pearl Lagoon, Rio Grande district, and the mining district of Prinzapolca will not suffer any manner of delay and will pay the duties fixed under the tariff dated November 15, 1902.

4. The respective consuls of the Republic will not authorize or certify any invoice of any merchandise destined to the said city, but shall, on the contrary, assist by all means possible the improvement of commerce with the other districts above mentioned.

JULIAN IRIAS.

The foregoing letter and decree was issued subsequent to my request to Commander Gilmer to ascertain from the officials of the Madriz faction in control at "the Bluff" their intentions in regard to the port of Bluefields and its commerce. My wireless to Commander Gilmer on the *Paducah* re the matter, dated May 28, 1910, was as follows:

I am advised by a responsible person who has conversed with Mr. Martinez, the collector of customs at the Bluff for the Madriz faction, that, while the steamer *Dicator* was permitted to depart, no more loaded ships could leave port and none either loaded or empty enter, whether from coast or foreign ports, until orders were received from Madriz to do so. As this practically closes the port, a proceeding that may not be recognized by our Government when injurious to American trade, it would be pertinent to be well informed as to what the faction in control at the Bluff proposes to do, as I desire to communicate their intentions to Washington immediately. Therefore, unless you purpose to insist that there be no such interference, I must report the facts, as I assume that our Government will not permit our trade and local commercial interests to be thus molested.

I have, etc.,

THOMAS P. MOFFAT.

Consul Moffat to the Secretary of State.

No. 159.]

AMERICAN CONSULATE,
Bluefields, May 31, 1910.

SIR: I have the honor to communicate the following, which is the text of an order issued by the Provisional Government of Estrada, which was duly notified this office by Minister General Rivera:

BLUEFIELDS, NICARAGUA, *May 28, 1910.*

HON. THOMAS P. MOFFAT,
American Consul.

SIR: To-day the following has been issued, which says literally:

The Provisional President of the Republic, considering—

That, having been notified of the bombardment of the Bluff, it is necessary to provide convenient means in order that the various interests that demand a customhouse may not suffer, the same being the case with Pearl Lagoon City, in the exercise of authority decrees:

ARTICLE 1. To transfer the customhouse from the Bluff to the office of revision in the city of Bluefields, designating "Schooner Key" as the point authorized for the entry of large and small vessels arriving from foreign and coastwise ports.

ART. 2. To absolutely prohibit the entrance at the Bluff of all classes of vessels, such being in contravention to law and subject to the penalties prescribed in the "ordinances of the customs and port."

ART. 3. That the port of Pearl Lagoon City will remain closed from this date, there being no vessel from that port permitted to enter Bluefields without the consent of the minister general.

Given in Bluefields, May 26, 1910.

JUAN J. ESTRADA.

I have, etc.,

THOMAS P. MOFFAT.

The Acting Secretary of State to Consul Moffat.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 31, 1910.

Mr. Wilson quotes the following instruction, which the Navy Department has to-day telegraphed to Commander Gilmer, for the information of Mr. Moffat:

The attitude of the United States remains precisely as set forth in the Secretary of State's letter to Rodriguez, December 1, 1909,¹ which continues entirely applicable to the present situation. The capture by the Madriz faction of the former customhouse at the Bluff does not affect the fact that Bluefields, with certain adjacent territory, for which goods hitherto passing that customhouse are intended, appears to remain, as heretofore, under the de facto control of the Estrada faction. This Government therefore admits the right of the Estrada faction to collect customs for Bluefields, and denies this right to the other faction. Inasmuch as this Government recognizes neither faction as a government of Nicaragua, but merely as in de facto control of portions of the country, proclamations on either part which are inconsistent with this attitude are without effect on the United States and its citizens.

The consul at Bluefields reports that the American-owned sloop *Adelaide* has been seized by Madriz faction and that American-owned schooner *Esfuerzo* was stopped and American-owned cargo seized by those in control at the Bluff. This Government denies the right of either faction to seize American-owned vessels or property without consent of and recompense to the owners. In such cases if you can ascertain ownership you will instantly act in accordance with this policy.

You will immediately notify both factions and the shipping interests of the foregoing.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, June 3, 1910.

Mr. Moffat reports that Gen. Estrada has transmitted through the consulate and the *Paducah* the following message to the President of the court of justice at Cartago:

Now that we have totally destroyed the armies of Gens. Lara, Godoy, and Charvarria, which were arrayed against Bluefields and Rama, with the loss (of) all their essentials of war and hundreds of lives, the provisional government believes it to be its duty, animated as always by these sentiments for peace, to insist on the negotiations pending with Dr. Madriz, who has not as yet replied to our message, dated March 14 last; to accomplish this end, which will terminate the misfortunes which affect the nation, permit me to appeal to your honorable tribunal, which has nobly expressed itself as interested in the peace and tranquillity of this poor country, that it may interpose its valued influence with Dr. Madriz to the end that he accept our proposals, which consist principally in the friendly mediation of American Government and other bases already brought to the knowledge of your high tribunal.

JUAN J. ESTRADA.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, June 7, 1910.

Mr. Moffat reports that Gen. Estrada has received from the court of Cartago the following, dated June 6:

Referring to your telegram addressed to this court, requesting its influence with President Madriz to the end that he accept the mediation of the United States, as pro-

¹See Foreign Relations, 1909, p. 455.

posed by you on March 14 last, this tribunal will do what is possible when assembled with the delegate from Guatemala, whose arrival is expected; meanwhile the court deems it proper to indicate that it reiterates its offer of friendly mediation, according to the terms of its resolution dated April 27, in which is expressed the desire that the Nicaraguan question be settled in family, resolution which doubtless interprets the desire of all Central American people and which subsequently received the applause of the Washington Government.

The President of Nicaragua to President Taft.

[Telegram—Translation.]

MANAGUA, June 13, 1910.

I beg Your Excellency's leave to refer to certain facts connected with our civil war.

On the 27th of May last the forces of this Government stormed the Bluff stronghold, which defends Bluefields.

The commanding officer of that force was under orders to proceed immediately and capture the city, which was without a garrison; that would have insured the ending of the campaign. This was frustrated by the attitude of the commander of the American cruiser *Paducah*, who notified the commanding officer of our troops that he would oppose with his forces the capture of the city, and to that effect landed American seamen to occupy it, and thus the revolution, sure of its base of operations, was enabled to take all of its forces out of the city and bring them against one of our columns, and so was a carefully planned combination, the success of which was certain, defeated.

This Government purchased in New Orleans a British vessel, *Venus*, now named *Maximo Jerez*, which sailed for San Juan del Norte by permission of the American authorities after exhibiting in good faith all the ammunition of war she had on board as articles of free commerce. At San Juan del Norte she was made a Nicaraguan vessel, fitted out as a war ship, and destined to blockade the port of Bluefields. The blockade was intended to prevent the revolution from continuing to receive, as before, arms, supplies, and funds from New Orleans. Your Excellency's Government denied our vessel the right to blockade as far as American vessels were concerned and the New Orleans source of supplies remained open to the revolution.

The capture of the Bluff put this Government in possession of the Bluefields customs, whereby it hoped to deprive the revolution of its customs receipts. Your Excellency's Government declared that customs duties must be paid to the revolution, and thus in a large measure frustrated the victory of our arms at the Bluff. Your Excellency's Government has denied us the right to prevent the passage off the Bluff of the American vessels bound for a revolutionary customhouse that has just been established on Schooner Key, in Escondido River, in spite of this Government's decree which closes the port and prohibits that traffic as a necessary measure of defense and pacification. The commanding officer of the *Paducah* one day threatened the captain of the *Maximo Jerez* to fire at and sink her if our troops attempted to attack Bluefields. The chief of our forces at the Bluff, having noticed that boats in the service of the revolution were using the American flag in order to pass in front of the fort without being stopped, notified the commander of the *Paducah* that he had resolved to prevent the free passage of those boats in front of

his positions; the commanding officers of the *Paducah* and *Dubuque* replied that they would enforce respect of American commerce with the firing of their guns, even though such commerce should consist of arms and ammunition for the revolution, and that one shot fired at the said boats would mean a declaration of war to the United States.

Lastly, I know that there is being prepared at Bluefields, still guarded by American seamen, an attack on our position at the Bluff and Laguna de Perlas. The warning of the commander of the *Paducah* prevents us from forestalling that action of the enemy as we, in self-defense, have the right to do.

It is my duty to say frankly to your Excellency that I can see no way in which the above-stated facts can be reconciled with the principles of neutrality proclaimed by the law of nations, and relying on the high rectitude of the Government of the United States I have no hesitation in applying to your Excellency with the respectful request that the orders given to your naval authorities at Bluefields be rectified. That will enable this Government easily to bring to an end a bloody and destructive revolution which has no life of its own and is working Nicaragua's ruin.

PRESIDENT JOSÉ MADRIZ.

The President of Mexico to President Taft.

[Telegram—Translation.]

MEXICO CITY, June 16, 1910.

PRESIDENT TAFT: The Mexican foreign office has just received the following telegraphic message, coming from the minister general of President Madriz of Nicaragua:

A matter, grave and momentous for Nicaragua, compels me to trespass upon your high attention. Our civil war was about to be finished by the taking of Bluefields by our army. The commander of the American cruiser *Paducah* landed forces at Bluefields and he warned us that he would oppose our occupying the place, although the center and forces of the revolutionary party are there. We captured the Bluff, which is the key to Bluefields, defeating the armed resistance, and were going to establish a blockade. The American Government prevents it in the case of American ships. Declares that the customs duties must be paid to the revolution which has established a new customhouse on Schooner Key, and insists that said ships shall freely pass our positions, even though they carry munitions for the revolutionary forces. The commander of the *Paducah* threatened that he would sink our boats if our forces attacked Bluefields, and that he would enforce respect for American commerce with his guns, even in the case of munitions for the revolutionary forces. These, though now confined to Bluefields, are safely making their preparations there to attack us. President Madriz cabled these facts to President Taft, asking for neutrality. In informing the Government of your Excellency, I respectfully solicit your good offices with the Cabinet of Washington in order that it may leave this Government free in the pacification of the country without the above-recited restrictions, which are the real cause of the war's continuing with incurable injuries and serious danger to this Republic. Nicaragua invokes her rights of sovereignty, the universal principles of justice and declarations made by the American Government in favor of the weak nations of the continent. She trusts, besides, in the moral support of friendly nations, especially of the sister republics of America. I urgently beg your Excellency (to acknowledge receipt of this?) and I sign myself, with all consideration, your obedient servant,

MINISTER GENERAL F. BACA.

If the facts are truly stated in all points, I venture to recommend earnestly and in a friendly manner to your Excellency that, actuated

once more by the lofty spirit of justice which has always distinguished the Government of the United States of America, the instructions which Nicaragua deplores will be taken into consideration, in order to permit the Government of Madriz, within a moderately brief time, to effect the complete pacification which it offers, since the prolongation of a state of war in Nicaragua perhaps may harm the whole of Central America. If, in any other manner, your Excellency deems that my good offices may be useful for the pacification of Nicaragua, I shall always be disposed to exercise them.

PORFIRIO DIAZ.

[NOTE.—The above-mentioned circular note, signed by Minister General F. Baca, is understood to have been communicated to all the Latin-American Governments.]

The Secretary of State to Consul Moffat.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 19, 1910.

Mr. Knox instructs Mr. Moffat to hand to Dr. Madriz, who has addressed a telegram to the President, the following, which he may also make public. Adds that this statement has been communicated to the Estrada faction at Bluefields.

The policy of the United States remains as set forth in the Secretary of State's letter of December 1, 1909, to Mr. Rodriguez, then chargé d'affaires, whereby relations with the Zelaya Government were broken off. That letter and statements of the consistent applications of the same policy to conditions as they arose were duly published.

As to the statements made in the telegram of Dr. Madriz to the President, the Government of the United States took only the customary step of prohibiting bombardment or fighting by either faction within the unfortified and ungarrisoned commercial city of Bluefields, thus protecting the preponderating American and other foreign interests, just as the British commander had done at Greytown, where there are large British interests.

The Government of the United States has acknowledged the right of each faction to maintain blockade, but has refused to permit vessels illegally and clandestinely fitted out in American waters to interfere with American commerce.

The Government of the United States simply insists that each faction shall collect duties only for territory under its de facto control and refuses to permit the collection of double duties.

If any violation of neutrality has occurred it was in connection with the sailing the *Venus* from New Orleans as an expedition of the Madriz faction.

The Secretary of State to Consul Olivares.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 19, 1910.

Mr. Knox instructs Mr. Olivares to communicate to the Estrada faction and make public the following statement, which has been handed by the consul at Managua to Dr. Madriz, who had addressed a telegram to the President.¹

¹Supra.

President Taft to the President of Mexico.

[Telegram.]

THE WHITE HOUSE,
Washington, June 19, 1910.

I appreciate Your Excellency's friendly interest in the relation of the United States to Nicaragua, which is in so deplorable a situation and whose welfare, like that of the other Republics of Central America, the Governments of the United States and of Mexico so earnestly sought to serve at the time of the Washington conventions.

As Your Excellency must have assumed, the telegram which Dr. Madriz caused to be sent you, like his similar telegrams to this and to a great number of other Governments, wherein he attributes the continuance of strife in Nicaragua to the policy of the United States, is evidently based upon erroneous advice as to the actual facts and as to the applicable principles of international law.

However, I am very glad, for your more precise information, to communicate the text of a statement which the Secretary of State has caused to be handed to Dr. Madriz by the consul at Managua and to be correspondingly communicated by the consul at Bluefields to the Estrada faction.¹

In making Your Excellency this communication I seize the opportunity to reiterate the expression of the friendship of this Government for the Republic of Mexico and to renew to Your Excellency at the same time the testimony of my cordial personal feelings.

WM. H. TAFT.

The Secretary of the Central American Court of Justice to the Secretary of State.

[Telegram.]

SAN JOSE, June 23, 1910.

Encouraged by the approval of your excellency's Government in the matter of mediation in Nicaragua the Central American court has insisted on it and proposed practical means of pacification. American legation here will in due course be informed of the bases.

With respectful consideration.

ERNESTO MARTIN.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, June 23, 1910.

Mr. Moffat reports that Gen. Estrada has received the following telegram, dated June 23, from Manuel E. Morales, president of the Cartago court of justice:

The Nicaraguan political question has arrived at such a state that the Central American court of justice deems it to be its duty to again offer you and His Excel-

¹ Supra.

lency President Madriz the mediation of the tribunal, so that you may promptly and through such mediation obtain the pacification of the country. Therefore, the permanent commission of the tribunal, in whose name I act, urges and calls upon your patriotism so that you accept this means of conciliation for the welfare of Central America's cherished interests, sending immediately new basis upon which may be founded a definite arrangement.

Permit me to suggest to you that the basis should be entirely new, since neither one nor the other of the former gave results, both claims having been examined. Both you and His Excellency President Madriz may rest assured that the attitude of the tribunal will be one of great impartiality. This alone assures to Nicaragua and to Central America future welfare, the reestablished harmony, and the reconciliation of the exhausted Nicaraguan family. I urgently request your reply. I transmit this same telegram to His Excellency President Madriz.

Consul Moffat to the Secretary of State

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, June 24, 1910.

Reports that Gen. Estrada has telegraphed following reply to President Morales, of the Cartago court of justice:

I have the honor to receive your aerogram of even date in which you urge me anew to arrive, with Dr. Madriz, through the mediation of your honorable tribunal, at a definite arrangement with the end of pacifying the country, stating that the basis which we have already proposed should be modified, and at the same time promising that the honorable tribunal will decide its attitude with true impartiality. Permit me to manifest to that eminent body that the provisional government, over which I have the honor to preside, on repeated occasions has called upon the patriotism of Dr. José Madriz to bring to an end the war which consumes Nicaragua, offering him sure, just, and equitable bases which guarantee the Nicaraguan people principally liberty in the assemblies, but unfortunately our propositions have been misunderstood or he mistrusts the mediators' suggestions, as may be seen by the silence which he has maintained, failing in the most trivial courtesy with respect to our repeated messages of peace. In this the provisional government regrets that it can not accept the mediation of the court of Cartago, even in view of its promises of impartiality and justice, because it would thereby commit a grave offense to the American Government, seemingly participating in that suspicion which Dr. Madriz seems to have of the mediator proposed by us from the beginning.

The Secretary of State to Minister Merry.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 25, 1910.

Mr. Knox instructs Mr. Merry personally to deliver the following:

ERNESTO MARTIN,
Secretary Central American Court:

Your polite telegram of June 23 has been received, and I will give the matter the attention which its importance demands. Feeling assured that the high influence of the honored body you represent will be of great benefit to the Nicaraguan people, to the Governments of Central America, and to the general interests of the United States in Central America as well as the interests of American citizens residing in Nicaragua, I should appreciate early information as to the court's views and bases, which may be sent by telegraph through our legation.

KNOX, Secretary of State.

Consul Moffat to the Secretary of State.

No. 201.]

AMERICAN CONSULATE,
Bluefields, July 10, 1910.

SIR: I have the honor to confirm cablegram sent via Colon on July 3, which reads as follows:

Merchandise sent by schooner from Bluefields to Prinzapolca and Rio Grande has been delivered to consignees without any demand for the payment of duty at the above-mentioned points by the Madriz officials. Shipments intended for exportation have also been permitted to leave the above-mentioned point for Bluefields without paying export taxes. From this it would appear that Irias's decree, effective June 25, is not being enforced.

Relative to the foregoing cabled information, it appears that when the schooners *Esfuerzo* and *Sunbeam* arrived at Rio Grande and Prinzapolca on July 29 and 30, respectively, with merchandise from Bluefields, upon which the duty had been paid to the Estrada faction, the Madriz officials at these places did not attempt to enforce the instructions promulgated in the decree of Gen. Irias, thus permitting the cargoes to be discharged free of duty. The same action was taken concerning the shipments sent by the same schooners to Bluefields for exportation.

Several shipments have since been made to and received from the points named without any interference or demand for duties being made. It may be that Gen. Irias, having been informed by our naval officers and this office that the provisions of the decree were considered as in effect a double levying of duties, directed its non-enforcement without announcing the fact, or it may be that the change of attitude was due to the fact that since the decree was announced as in effect (June 25) the Madriz customhouse at Pearl Lagoon had been captured by the Estrada faction.

I have, etc.,

THOMAS P. MOFFAT.

The Acting Secretary of State to Minister Peirce.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 22, 1910.

Mr. Wilson instructs Mr. Peirce immediately to hand to the minister for foreign affairs a copy of the following reply which has been sent in answer to inquiries from American companies and copy of which has been given also to the Norwegian chargé d'affaires in Washington with further explanation of the situation:

The Bluefields Steamship Co., as charterer of Norwegian steamers carrying American goods, and seven American firms as shippers have represented that the Norwegian Government has given instructions to Norwegian consuls with the result that agents and captains have been notified by Norwegian consular officers that the Government of Norway has been informed of the closing of the port of Bluefields, in Nicaragua, which is in the territory under the de facto control of the Estrada faction, by authority of orders made by the Madriz faction last October and on May 16, and that such agents and captains have been warned that the Norwegian Government can not protect them from any consequences which may follow in disregard of such orders of closure. These

firms represent that this situation means the crippling of very important commercial and other American interests on these coasts.

Official reports just received from Bluefields seem to indicate that the reported action of Norway may have been based upon erroneous information. In the first place, it is now a well-settled and recognized principle of international law that ports in the possession of hostile forces can not be closed to foreign commerce by mere executive decrees of closure unless such decrees are followed and supported by effective blockades of the ports so closed. It would, therefore, seem that the reported Madriz decrees of October 13 and May 16, closing the port of Bluefields, are, in the absence of effective blockade at that port, devoid of effect or influence upon neutral commerce. In the second place, it would appear that even should a foreign government recognize the right of blockade by a ship of the character of the *Venus*, apparently the only blockading force possessed by Madriz, nevertheless as it is notorious that the *Venus* has, since her appearance at that port, been absent from Bluefields for long periods, on which occasions she is reported to have violated the rules of international law by bombarding other unfortified Nicaraguan towns, and also to have committed other acts of hostility, all so far from her base at Bluefields, it would appear clear that were the contemplated blockade of Bluefields ever effective, it has long since ceased to be so and is therefore without any value in international law, Bluefields now being under these circumstances an open port.

As for the question of protection of American chartered ships and American cargoes by the United States, you are referred to the telegram from the Secretary of State to the Bluefields Steamship Co. under date of November 18, 1909: "If the announced blockade or investment of the Nicaraguan port of San Juan del Norte (Greytown) is effectively maintained and the requirements of international law, including warning to approaching vessels, are observed, this Government would not be disposed to interfere to prevent its enforcement. A naval vessel will be ordered to Greytown to observe and report whether the blockade is effective;" to the letter of the Secretary of State to the Secretary of the Navy, dated May 24, 1910, which contained the following proposed instruction to Commander Gilmer, which instruction was given: "The United States policy as to the blockade at Bluefields, whose announcement by the Madriz faction would seem to constitute a recognition on their part of the belligerency of the Estrada faction, will naturally be the same as that laid down in regard to the blockade at Greytown by the Estrada faction. The Secretary of State then held that if the announced blockade or investment was effectively maintained and the requirements of international law, including warning to approaching vessels, were observed, the United States Government would not be disposed to prevent its enforcement, but reserved all rights in respect to the validity of any proceedings against vessels as prizes of war. In the present instance it should, however, be observed that a vessel which, by deceiving the authorities at a port of the United States, sailed therefrom in the guise of a merchantman, but had in reality been destined for use as a war vessel, by such act has forfeited full belligerent rights, such as the right of search on the high seas and of blockade." Also the letter of the Secretary of State to the Secretary of the Navy of June 3, regarding a proposed instruction to Commander Gilmer, which instruction was also given: "This Government denies the right of either faction to seize American-owned vessels or property without consent of and recompense to the owners. In such cases, if you can ascertain ownership, you will instantly act in accordance with this policy." And the letter from the Secretary of the Navy to the Secretary of State of June 7, containing the notifications issued by Commander Gilmer under date of June 3: "I received a communication to-day from Gen. Rivas, commanding Madriz forces, Bluefields Bluff, stating that certain vessels have been used by Estrada forces and that he would not permit vessels of Bluefields Steamship Co., Atlantic Navigation Co., Bellanger Co., and Cukra Co., all American companies, to pass through the waters held by Madriz forces. I informed him that Estrada had the right to use these vessels with consent of owners if properly remunerated, but while so used Rivas had the right to capture or destroy them; but when in the company's legitimate trade I would permit no interference with them. I have ordered guard American marines or sailors on vessels passing Bluff when in legitimate trade. Have informed Rivas that if they were fired upon I would return the fire and would seize the *Venus* and *San Jacinto* and that I would permit no interference with shipping of American firms in legitimate business."

Consul Olivares to the Secretary of State.¹

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, August 19, 1910.

Mr. Olivares states that it is confirmed that the army of the revolution yesterday defeated Madriz's troops on the Tipitapa River and that a part of its forces crossed over to this side. Says it is reported that the revolutionary forces south of Granada have badly defeated a strong column of Madriz's troops in that vicinity; that the public seems to be unanimous in opinion that Madriz's power is steadily weakening and that he may be overthrown at any time. Adds that much apprehension prevails in Managua on account of the danger of an attack, as the contending armies are only 21 miles distant.

Consul Olivares to the Secretary of State.¹

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, August 19, 1910.

States that Gen. Toledo, who commanded Madriz's forces on the Tipitapa River, has arrived in Managua and reports that upon being attacked yesterday by the revolutionary forces his troops were seized with panic and fled. Says that some of the routed troops went to Granada and some have arrived in Managua, and that the entire invading army of the revolutionists is now on the Managua side of the Tipitapa. States that it is reported that houses in Granada were last night sacked by Madriz's troops and that the city is now being attacked by the revolutionists. Reports that Madriz states it is his purpose to deposit the so-called presidency to-morrow in Jose Dolores Estrada, brother of Gen. Juan Estrada, who declares that he will turn the power over to the leaders of the revolution. Says that the family of Madriz has left Managua for Corinto and that Madriz is to follow to-morrow with the object of leaving Nicaragua. Says that Irias and family and Toledo are also preparing to leave the country to-morrow. Adds that Managua is in a turmoil of excitement and open hostility is being manifested toward Americans by Madriz's followers, who roam the streets crying, "Death to the Yankees." Says the legation and consulate buildings are under heavy police guard to-night and the general situation threatens to be serious during the next few days.

Consul Moffat to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Bluefields, August 20, 1910.

Mr. Moffat reports that the Madriz forces under Gen. Rivas, numbering 700, attacked and were defeated by Mena at Granada; that the attack resulted in complete rout; and that Rivas was killed. Adds that the revolutionaries intend immediate advance upon Masaya.

¹ Transmitted through the American legation at Tegucigalpa.

Consul Olivares to the Secretary of State.¹

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, August 20, 1910.

Mr. Olivares reports that Madriz has to-day deposited the so-called presidency of Nicaragua in Jose Dolores Estrada, who has issued textually the following manifesto:

To the Nicaraguans.

FELLOW COUNTRYMEN: Called to the exercise of the presidency in accordance with the provisions of our constitution, I have taken charge of the provisional command of the Republic in times of difficulty and sorrow for the mother country. In so doing I have had nothing in mind but to assist, as far as it lay in my power, in restoring peace so as to bring at once to an end the shedding of blood and thus open an era of reconciliation which may stop the misfortunes that are now rending the national honor. My object, then, is exclusively to guarantee order to society, while I turn over the command to the revolution, to which end I have already taken appropriate steps. I therefore hope, in my disinterested and loyal efforts, that I may rely on the cooperation of the good sons of Nicaragua and I entreat them to lend me their support, as the only sure means of satisfactorily discharging the sacred duties which, to my mind, patriotism imposes upon me.

JOSE D. ESTRADA.

MANAGUA, August 20, 1910.

Mr. Olivares says it is reported that the vanguard of the revolutionary forces is only 10 miles from Managua, but Estrada is endeavoring to persuade the invading army to suspend hostilities until he can turn over his power to his brother Juan in person. Adds that Madriz departed to-night for Corinto and that Managua is enthusiastically celebrating his exodus with fireworks and bells.

Consul Olivares to the Secretary of State.¹

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, August 21, 1910.

Mr. Olivares reports that at 11 o'clock a. m. the vanguard of the army of the revolution, consisting of about 250 cavalry and infantry commanded by Agustin Chamorro Bolanos, entered Managua without opposition and later in the day were followed by about 500 additional revolutionary troops, which are now quartered in the barracks of the national military school, and that more revolutionary forces are expected to arrive at any time.

Mr. Olivares says that in the afternoon Jose Dolores Estrada, who is also a national deputy, issued a decree of which the following is a literal translation:

The Deputy President, in charge of the executive power of the Republic, employing the faculties with which he is invested, and taking into consideration that there is peremptory necessity of putting an end to the civil war which stains us with blood and annihilates us, decrees:

First. To recognize the Provisional Government of Nicaragua, proclaimed by the revolution of Bluefields, the 10th of the month of October of the year last past, in charge of its Provisional President, Gen. Juan Jose Estrada.

Second. To appoint a peace commission, in charge of Drs. Rafael Cabrera, Salvador Castriello, Hildebrando A. Castellon, Gen. Jose Leon Costillo, and Messrs. Tomas

¹ Transmitted through the American legation at Tegucigalpa.

Martenez and Salvador Costillo, in order that they proceed to the revolutionary camp to notify the military chiefs of this decree, covenanting with them a sufficient armistice, pending the arrival at this capital of the chief of the revolution and Provisional President of Nicaragua.

Third. If the commissioners meet Gen. Estrada they may sign with him a preliminary peace agreement, strictly according to this decree; requesting, besides, an immediate conference with the present Chief Executive at such place as they may be pleased to designate.

Fourth. In case Gen. Estrada is still at any distant point of the scene of military operations, commissioners may propose, besides the armistice, that the revolutionary chiefs [confer] for the purpose of choosing a person who, in the name of the revolution, will proceed to this capital to associate himself with the present custodian of the executive power, organizing with him a provisional council of government, which will have in its charge the supreme control of the Republic pending the arrival of the President, Juan Estrada.

Fifth. Gen. Juan Jose Estrada will previously promise to order the holding of entirely free elections for President of the Republic, in accordance with the conventions of the two great political parties into which the country is divided, provided such time shall in no case exceed six months.

Sixth. If one or more of the commissioners should find it inconvenient to accept the patriotic and highly humane mission that is intrusted to them, the vacancy will be filled by means of election which the commissioners will perform in a written act, of which they will make due testimony in order that it may serve as a sufficient credential.

Done at Managua the 21st day of the month of August, 1910.

JOSE D. ESTRADA.

Adds that Gen. Juan Estrada is reported to have left Acoyapa for Managua.

General Estrada to the Secretary of State.

[Telegram.]

ACOYAPA, VIA BLUEFIELDS,
(Received August 23, 1910—8.25 a. m.)

The first official act of the new President of Nicaragua is to assure, through your excellency, the American people of the warm regard entertained for them by the victorious party of the revolution.

I desire to inform your excellency that Nicaragua is willing and eager to make the proper restitution for the unfortunate killing of your citizens Cannon and Groce and for other atrocities committed by my predecessors.

JUAN J. ESTRADA.

Consul Olivares to the Secretary of State.¹

[Telegram.]

AMERICAN CONSULATE,
Managua, August 24, 1910.

Refers to his telegram August 21, and states the commission named in the Estrada decree, accompanied by the consuls of Great Britain, Italy, and Spain, last Sunday went to Grenada for the purpose of negotiating peace with the leaders of the revolution; that the commission returned this morning, reporting inability to communicate with Gen. Juan Estrada and the failure to negotiate terms with Gen. Emiliano Chamorro, who insists upon the immediate surrender of all armed forces of the opposing faction; that Jose

¹ Transmitted through the American Legation at Tegucigalpa.

Estrada refuses to do this and insists upon surrendering his power to Juan Estrada in person. Mr. Olivares says these circumstances render the situation very critical. Mr. Olivares says he has received from Gen. Chamorro, at Granada, a telegram notifying him that the attitude of the opposing faction neutralizes his [Chamorro's] operating against Managua, Masaya, and Granada, and declining all responsibility for damage which might result to American interests in those places. Mr. Olivares has replied by telegraph to Chamorro that the Government of the United States will hold both factions strictly responsible for the protection of American life and property in Nicaragua. When, at the request of Jose Estrada this afternoon, Mr. Olivares called upon him, Estrada stated that he had spared no efforts to end the war peaceably, and now that his endeavors appeared to be unavailing he declined the responsibility of anything which might happen. When Mr. Olivares informed Estrada of his responsibility for the protection of American life and property, he replied that if attacked by the revolutionary forces he would be obliged to resist. Mr. Olivares says that the principal representatives of both factions in Managua to-day desired him to use his good offices to prevent continued hostilities, and that he endeavored to make them realize that it is the duty of the partisans of both sides to employ all their reason and energies to prevent further bloodshed. Mr. Olivares adds that if it is desirable that he use his good offices in any way to instruct him. Gen. Estrada should reach Granada by Friday.

The Acting Secretary of State to Minister McCreery.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 26, 1910.

Mr. Wilson instructs Mr. McCreery to communicate the following instruction to Consul Olivares at Managua:

Yours of August 24. Pending new developments, you are instructed as follows: Jose Dolores Estrada and the commission appointed by him do not appear to constitute a governmental organization for international purposes, but rather a committee of public safety pending Juan Estrada's arrival at Managua, and therefore this Government or its representatives can not enter into relations of a political nature with them. It is not doubted that Juan Estrada, head of the successful revolutionary faction, will seek recognition by the United States as Provisional President as soon as he arrives at the capital. You will refrain from acting as intermediary for groups of Nicaraguans, even if they claim to represent factions, excepting upon this basis and unless necessary as a matter of momentary expediency.

Consul Olivares to the Secretary of State.¹

[Telegram—Extract—Paraphrase.]

AMERICAN CONSULATE,
Managua, August 28, 1910.

Mr. Olivares reports that Gens. Juan Estrada and Emiliano Chamorro arrived at Nicaragua at 6 o'clock p. m. to-day.

¹Transmitted through the American Legation at Tegucigalpa.

Señor Castrillo to the Secretary of State.

NEW VARNUM HOTEL,
Washington, September 12, 1910.

SIR: I have the honor to inclose herewith copy of cable instruction received on Saturday evening, the 10th instant, from Señor Don Juan J. Estrada, President of the Provisional Government of Nicaragua, which is in peaceful and unrestricted possession of the entire Republic, and whose recognition I am now directed to ask of the Government of the United States.

For your excellency's information I am further directed to represent:

1. That a general election will be held within one year, the date to be fixed by a constitutional convention convoked for that purpose.

2. That the Provisional Government will endeavor to improve and rehabilitate the national finances, to which end the aid of the Department of State will be asked in securing a loan in the United States.

3. That such loan will be secured by a percentage of the custom revenues, to be collected in a manner agreed upon between the two Governments.

4. That those responsible for the death of Cannon and Groce will be prosecuted and punished and a suitable indemnity paid to the families of the deceased.

5. That, in order to facilitate compliance with the foregoing and in event there exist necessity for formal agreement, the Department of State is requested to send to Nicaragua a commission for that purpose.

Asking your excellency's benevolent consideration of the foregoing, I am, etc.,

SALVADOR CASTRILLO, h.

[Inclosure.]

General Estrada to Señor Castrillo.

MANAGUA, September 10, 1910.

The Provisional Government over which I have the honor to preside being now in the peaceful possession of all the Republic, you will ask of the Department of State my recognition as Provisional President pending an election within a prudent period, not to exceed one year, and which will be fixed by a (constitutional) convention to be convoked within one month. My administration will endeavor to rehabilitate and develop the public treasury; to refund the national debt, to which effect it will ask the aid of the American Government to obtain there a loan, giving as security a part of the customs duties, the collection of which will be made in a manner agreed upon between the United States and Nicaragua; and to prosecute and punish those responsible for the death of Cannon and Groce and to pay reasonable indemnity to their relatives. In order to facilitate compliance with these and other arrangements you will request the Government of the United States to send to Managua a commission in event any of these negotiations require formal agreement.

ESTRADA.

The Acting Secretary of State to Señor Castrillo.

DEPARTMENT OF STATE,
Washington, September 14, 1910.

SIR: I have the honor to acknowledge the receipt of your courteous note of September 12, with which, as the representative of Señor

Don Juan J. Estrada, President of the Provisional Government of Nicaragua, you transmit to the department a telegram from President Estrada in which he outlines the policy his administration will follow in certain respects and asks this Government to send to Managua a commission to conclude any formal agreements that may be necessary.

The department receives this communication with great satisfaction, believing that the proposals of President Estrada will conduce to the welfare of Nicaragua and to the good relations between your country and the United States. The department will shortly communicate with you further on this subject and take the requisite measures for the selection of the commission proposed.

I have, etc.,

HUNTINGTON WILSON.

Minister McCreery to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Tegucigalpa, October 3, 1910.

Mr. McCreery states that Madriz left Amapala for Mexico via La Union, this date, a. m.

The Acting Secretary of State to Minister Dawson.¹

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 11, 1910.

Mr. Adee instructs Mr. Dawson to proceed at his early convenience to Managua, availing of a naval vessel of the United States to which proper instructions have already been issued, and there immediately enter into relations with the executive power of the Provisional Government of Nicaragua and act as special agent of the United States, Moffat and Olivares acting as his secretaries. Advises him to report fully upon the situation and, in view of the request to this effect of the Provisional Government, to endeavor to facilitate compliance with the declaration of policy made to the Government of the United States by that Government, presenting the following views for that purpose:

First. The reestablishment of a constitutional government and the election of a constitutional president, which should take place at the earliest practicable date, the absolute freedom of all elections being guaranteed by the Provisional Government. The constitution to be adopted should be thoroughly liberal in character and provide suitable guaranties for foreigners. The constitutional inhibitions of commercial monopolies should be affirmed.

Second. To rehabilitate the finances and pay the legitimate foreign and domestic claims it would be advisable to negotiate a loan secured by a percentage of the customs revenues to be collected according to agreement between the two Governments, but in such a way as will certainly secure the loan and assure its object. Upon the

¹ Mr. Dawson, American minister to Panama, is designated as special agent of the United States near the Provisional Government of Nicaragua.

request of the Provisional Government the Government of the United States, in order to insure the drafting of a plan to accomplish these purposes in the most efficient manner and with the least possible burden to Nicaragua, will be willing to send a confidential financial expert and, after a plan has been drawn satisfactory to both Governments, will use its good offices to secure the conclusion of a contract based upon its terms between Nicaragua and some American financiers of high standing.

Third. Liquidated claims shall be paid in amounts now fixed and determined, and unliquidated claims of all kinds arising out of or connected with recent political conditions in Nicaragua shall be submitted to impartial examination according to a plan to be discussed between Mr. Dawson and the Provisional Government and reported to the department for consideration.

Fourth. Those responsible for the death of Cannon and Groce will be prosecuted and punished, the question of the amount of the indemnity to be paid to the families to await the result of these proceedings.

Adds that as Mr. Dawson is already familiar with them, the desires of this Government will sufficiently appear from the above outline, and that his formal designation will be sent to Managua.

The Acting Secretary of State to Consuls Moffat and Olivares.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 12, 1910.

Mr. Adeë states that Mr. Dawson, American minister to Panama, has been designated to act as special agent near the Provisional Government of Nicaragua and instructed to proceed to Managua, and that Consuls Moffat and Olivares will respectively act as his secretaries, this designation causing no change in their consular status and duties and entitling them to no additional compensation.

The Acting Secretary of State to Minister Dawson.

[Extract.]

DEPARTMENT OF STATE,
Washington, October 14, 1910.

SIR: Referring to the department's telegram of the 11th instant, you are advised that, by direction of the President, you are designated special agent of the United States to the Provisional Government of the Republic of Nicaragua. You will, on your arrival at Managua, enter into de facto relations with the executive power of that Government, showing this instruction as your authority. Messrs. Thomas P. Moffat, consul of the United States at Bluefields, and Jose de Olivares, consul of the United States at Managua, have been instructed to act as your secretaries.

I am, etc.,

ALVEY A. ADEE.

Minister Dawson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, October 19, 1910.

Mr. Dawson states that he arrived in the afternoon of the 18th and formally visited Provisional President on the 19th; that his reception by the President and cabinet was most cordial.

Minister Dawson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, October 28, 1910.

Mr. Dawson states that Provisional President Estrada, Minister of Foreign Affairs Diaz, Minister of Finance Mena, are willing to agree:

First. To call an election to take place November 20, members of constitutional convention to meet December 15, to elect President and Vice President for a period of two years, and to adopt a democratic constitution.

Second. To support in the convention Estrada for President and Diaz for Vice President, Estrada not to be candidate to succeed himself.

Third. To pledge now their influence that the constitution adopted shall renew and strengthen abolition of monopolies, guarantee foreigners' rights, provide for free popular election for the President who is to succeed Estrada, and that the convention will authorize the Executive to make arrangements with the United States as indicated in paragraphs 2, 3, and 4 of the department's telegram of October 11, 4 p. m. The above would be gladly accepted by most Liberals. A popular presidential election is at present impracticable and dangerous to peace. Delay in the Government acquiring solid and internationally recognizable status very dangerous.

He adds that Chamorro and old Granada Conservatives propose restrictions that will leave Estrada President only in name during temporary interval and that the Conservative Club they control be given the selection of his successor, which virtually means dominance by Chamorro now and his succession to the Presidency, Mena, who controls arms and ammunition and has large following in Granada, not consenting. Also Leon and Liberals would rise sooner or later if Estrada does not continue as President, wherefore the present situation is virtually anarchy, and no progress has been made toward defining a policy since the fall of Madriz.

Mr. Dawson approves the Estrada-Mena-Diaz plan, since they are the present responsible officers of the Provisional Government, and regards it as the only one that offers a chance of continued peace. Asks if the department also approves.

The Acting Secretary of State to Minister Dawson.

[Telegram—Extract—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 2, 1910.

Mr. Adee acknowledges his telegram of October 28, and states that he may express the department's satisfaction with the engagement so soon as it shall have been signed by all the important factional leaders, including Mena, or earlier, if in Mr. Dawson's judgment such engagement constitutes a substantial contribution to the cause of harmony in Nicaragua, advising him not to fail to impress upon all concerned the department's view that this engagement is not only binding as between the signatories, but also constitutes a solemn pledge to this and other foreign governments that public order will be maintained and that any violation of the agreement can not but be disastrous to Nicaragua.

Adds that Mr. Dawson may, in his discretion, express the department's concern that so little progress has been made toward formulating a reassuring policy and point out that the present condition of disorder tending to anarchy can not in the nature of things be permitted to continue, and that it is the earnest desire of the department that these evils be corrected by the orderly and organized efforts of patriotic Nicaraguans rather than by such outside pressure, as would appear to be inevitable should present conditions be allowed to drift indefinitely, and that he will lose no opportunity to emphasize the desire of this Government that all parties work together to allay the factional differences engendered and kept alive by the events of the past year, and make clear the responsibility which will rest upon any party or individual guilty of an attempt to foment differences and retard the pacification of the country and the reconciliation of all factions.

Minister Dawson to the Secretary of State.

[Telegram—Extract—Paraphrase.]

AMERICAN CONSULATE,
Managua, November 6, 1910.

Mr. Dawson states that the documents referred to in his telegram of October 28, signed, and one original of each was delivered to him, and that the note from the foreign office will also set forth the program, including a mixed commission for all unliquidated claims, one member to be named by Nicaragua, a second by the United States, and, if a third be necessary, to be chosen by the first two, the department to have the right to modify this feature; also requesting loan and the sending of a financial expert who should leave the United States about December 15. Adds that the leaders have further signed and handed to him, as witness, a personal arrangement agreeing to support in 1912 any candidate the majority of themselves may agree upon.

Consul Moffat to the Secretary of State.

[Telegram—Extract—Paraphrase.]

AMERICAN CONSULATE,
Managua, November 28, 1910.

Mr. Moffat reports that elections were held yesterday and to-day; that no disorder occurred in Managua; that advices received by the Government from Leon and other important points within telegraphic communication have reported similar conditions; and that, as anticipated, hundreds Leon Liberals voted for the Conservative deputies. Mr. Moffat adds that it is generally believed this assembly will elect Estrada unanimously.

Consul Moffat to the Secretary of State.

[Telegram—Extract—Paraphrase.]

AMERICAN CONSULATE,
Managua, December 31, 1910.

Mr. Moffat reports the unanimous election of Estrada and Diaz as president and vice president respectively. He says there is intense enthusiasm.

[To be continued in Foreign Relations, 1911.]

NORWAY.

DEATH OF MR. OVE GUDE, NORWEGIAN MINISTER TO THE UNITED STATES.

File No. 7370/32.

The Norwegian Chargé to the Secretary of State.

[Telegram.]

NORWEGIAN LEGATION,
White Sulphur Springs, W. Va., July 1, 1910.

It is my sad duty to announce the death of Honorable O. Gude, minister for Norway, to-night at 10 o'clock.

MORGENSTIERNE.

File No. 7370/33.

The Acting Secretary of State to the Norwegian Chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 2, 1910.

This Government learns with deep regret of the death of Mr. Gude. Pray accept and convey to your Government the expression of the sincerest sympathy.

HUNTINGTON WILSON.

File No. 7370/33.

The Acting Secretary of State to Mrs. Ove Gude.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 2, 1910.

Please accept the sincerest condolences in your sad bereavement. If the Department of State can render any service pray be sure to command me. I offer at the same time the deep personal sympathy of my wife and myself.

HUNTINGTON WILSON.

File No. 7370/36.

Norwegian Chargé to the Acting Secretary of State.

[Telegram.]

NORWEGIAN LEGATION,
Washington, July 4, 1910.

Please accept this legation's sincere thanks for message of sympathy, which I have conveyed to my Government.

MORGENSTIERNE.

File No. 7370/38.

The Norwegian Chargé to the Secretary of State.

[Telegram.]

NORWEGIAN LEGATION,
White Sulphur Springs, W. Va., July 15, 1910.

I have the honor to convey to your excellency and the Government of the United States the sincere thanks of my Government for the sympathy shown on the occasion of the death of Mr. Ove Gude, late minister of Norway to this country.

Accept, etc.,

MORGENSTIERNE.

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PANAMA.

DEATH OF THE PRESIDENT OF PANAMA.

File No. 847/218.

Minister Weitzel to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Panama, March 1, 1910.

The President of Panama died at 2.40 this afternoon.

WEITZEL.

File No. 847/218.

The Minister of Panama to the Secretary of State.

[Translation.]

PANAMA LEGATION,
Washington, March 1, 1910.

EXCELLENCY: With profound sorrow I inform your excellency that the most excellent Señor Don Jose Domingo de Obaldia, President of Panama, died to-day at 2.45 p. m., and that the most excellent Señor Dr. Carlos A. Mendoza, second designado, has assumed the office of President of the Republic under a constitutional provision, owing to the death on May 19, 1909, of the first designado, Señor Don Jose Agustin Arango.

I renew, etc.,

C. C. AROSEMENA.

File No. 847/227.

Chargé Weitzel to the Secretary of State.

No. 647.]

AMERICAN LEGATION,
Panama, March 2, 1910.

SIR: I have the honor to advise the department that Dr. Carlos A. Mendoza, "segundo designado," Second Vice President of Panama, took oath of office on March 1, 1910, at 3.45 p. m., as Chief Executive of the Republic, in succession to Don Jose Domingo de Obalda, deceased.

The ceremony was held in the supreme court room before the members of that tribunal, the oath being administered by the chief justice, as shown by the record of the proceedings, copy of which is transmitted herewith.¹

The induction into office was brief and simple, and was attended by about 30 persons, including myself.

I have, etc.,

GEORGE T. WEITZEL.

¹ Not printed.

File No. 847.223 K C/J.

The Acting Secretary of State to the Minister of Panama.

No. 24.]

DEPARTMENT OF STATE,
Washington, March 5, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, by which you inform the department of the death on that day of his excellency Señor Don Jose Domingo de Obaldia, President of the Republic of Panama.

The sad intelligence of the death of President Obaldia had previously reached the department by means of a telegram from the American chargé d'affaires at Panama City.

The Government and the people of the United States share in the sorrow which has come to the Government and people of Panama and the family of President Obaldia in the death of this eminent statesman.

The department has taken note of the further fact which you communicate that his excellency Señor Dr. Carlos A. Mendoza, the second designate, has assumed the office of President of Panama, in accordance with the constitution of that country, owing to the death on May 19, 1909, of the first designate, Señor Don Jose Agustin Arango.

Accept, etc.,

HUNTINGTON WILSON.

File No. 847/224 C/J.

*The Acting Secretary of State to the Secretary of the Legation of Panama.*DEPARTMENT OF STATE,
Washington, March 7, 1910.

SIR: I have the honor to acknowledge the receipt of the note, No. 7, dated the 2d instant, which, pursuant to instructions from your Government, and in the absence, in New York City, of Minister Arosemena, you address to the department, and in which you quote a telegram from your Government stating that the transfer of the executive power in Panama, occasioned by the lamented death of President Obaldia, was effected in the greatest order and with the unanimous acquiescence of the friends and opponents of the deceased President's administration, and that the opposition is absolutely patriotic and respectful of the constitution and laws of the country, and is working in complete harmony with the chiefs of the Executive.

The telegram further states that President Mendoza declares that he will pursue the policy of concord and toleration set by President Obaldia, and that it is his purpose to maintain the excellent relations and full understanding which the Panaman Executive has been cultivating with the Government of the United States.

Assuring you that your note has been read with great interest and appreciation, I beg you to accept, sir, the assurance of my high consideration.

HUNTINGTON WILSON.

CONVENTION FOR THE SETTLEMENT OF THE BOUNDARY DIS-
PUTE BETWEEN COSTA RICA AND PANAMA—GOOD OFFICES OF
THE UNITED STATES.

File No. 2491/31.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, December 9, 1907.

SIR: I have the honor to confirm herewith our conversation of the 4th instant. As I have had expressed to your excellency the Government of Costa Rica is animated by the best desires to bring to an end the boundary controversy pending with the Republic of Panama, but various circumstances have opposed themselves until the present the accomplishment of this so desirable result; and it is to be believed that the present situation will continue indefinitely if the good and impartial offices of your excellency's Government, who has shown such marked evidences of sympathy and interest as well for Costa Rica as for Panama, do not come to the aid of both countries with the object of adjusting the difference.

As your excellency were good enough to express to me the importance to the Government of the United States of the determination of the respective jurisdiction of Costa Rica and Panama in the territory in dispute, with respect to questions arising between American citizens in regard to better title to those lands no less than the good disposition always evinced by your excellency's Government in favor of the friendly settlement of any differences between the sister States of the American Continent, cause me to hope that this time it will also give us the benefits of its moral support to a just settlement of the question.

The minister of Costa Rica in Washington, Señor Don Joaquin Bernardo Calvo, has kept your excellency informed of the different phases which the boundary question has assumed since his excellency the President of France, M. Emile Loubet, the arbiter chosen to adjust it, pronounced his award.

Minister Calvo in a note dated November 26, 1906, transmitted to your excellency copy and translation into English of the three instruments signed in Panama, looking to the final settlement of the pending boundary question between the two countries. With these papers he also sent copy of a note addressed by the minister of Costa Rica in Paris, Señor Don Manuel Maria Peralta, to the secretary of foreign relations of the French Republic, M. Delcassé, dated September 29, 1900, and of the answer to the same, dated November 25 of the same year, concerning the interpretation given by Costa Rica of the award which his excellency President Loubet issued on the 11th of the same month of September, 1900. In the second of these notes the fact is stated that the arbiter, in the absence of precise geographic data, was able to fix the boundary line only by means of general indications, and it is also asserted that it will correspond with the two Republics to proceed to the material determination of their respective frontiers, the arbiter, deferring, moreover, to the spirit of conciliation and good understanding which have inspired the two Governments of Colombia and Costa Rica, then, as now, inspire those of Costa Rica and Panama.

Lately, in view of the modifications, by the way, unacceptable to Costa Rica, which under the modest title of "aclaraciones" (explanations) the assembly of Panama introduced in the second of the three instruments mentioned, modifications which brought practically about the failure of the treaty in both countries, Minister Calvo expounded to your excellency, in an interview held on the 20th of last June, the views of the Government of Costa Rica on this subject, expressing besides the objections existing against the treaty of Panama and against the French award, these objections being of such a nature that, if presented, would undoubtedly cause a complete invalidation of said sentence.

In this occasion Mr. Calvo also manifested the good will of my Government to arrive at a final and satisfactory solution of the question, if not directly, by proposing to the Government of Panama to submit to the arbitration of the Chief Justice of the United States whatever refers to the interpretation of said award.

Your excellency was kind enough to express to Mr. Calvo that the way suggested by my Government was found to be acceptable, in case no other more direct one could be found, and that, there being no objection to the nomination of the proposed arbiter the department, under your excellency's able direction, would, with great pleasure, cooperate to obtain the acceptance of the Chief Justice of the United States, or of one of the Associate Justices of the Supreme Court, should the former because of any circumstance not be able to accept the nomination.

Consistent with the foregoing, and again referring to the interview of the 4th instant, already mentioned, I desire to request your excellency's good offices near the Government of Panama to the desired end. My Government, who appreciates greatly the tokens of consideration received from the illustrious Government of Washington, is confident that through its wise and disinterested cooperation the Republic of Costa Rica will be able to carry to a happy end the fixing of the dividing line with her sister Republic of Panama, thus making closer still, if possible, the friendly relations which happily unite those two countries.

Be pleased, etc.,

LUIS ANDERSON.

File No. 2491/31.

The Acting Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, December 19, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which, referring to your conversation with the Secretary of State on the 4th instant, you give the present status of the boundary controversy between Costa Rica and Panama, and request the department to use its good offices with the Government of Panama to bring about an arbitration by the Chief Justice of the Supreme Court of the United States or by one of the Associate Justices of that court of said boundary controversy.

In reply, I have the honor to say that the department will take the matter up at once with the Government of Panama and endeavor to secure the arbitration desired by the Government of Costa Rica.

Accept, etc.,

ROBERT BACON.

File No. 2491/31.

The Acting Secretary of State to Minister Squirers.

No. 77.]

DEPARTMENT OF STATE,
Washington, December 24, 1907.

SIR: I inclose copies of a note, dated in this city December 9, 1907, from the Costa Rican minister of foreign affairs, and of the department's reply of the 19th instant, in regard to the boundary controversy between Costa Rica and Panama.

You will note the request of the Costa Rican minister of foreign affairs and the department's cordial acquiescence in the desire of Costa Rica to submit to arbitration the boundary dispute between Costa Rica and Panama, which was thought to have been adjusted by the terms of the Loubet award of September 4, 1900. As the records of your legation will show, and as you are no doubt aware, the award was unsatisfactory to Costa Rica and Panama, as successor of Colombia to the disputed territory, and has been subject of prolonged diplomatic negotiations between the two countries looking to an effective delimitation of boundaries.

You are instructed to state to the Panama minister of foreign affairs the interest that the United States takes in the adjustment of the boundary dispute between Costa Rica, and you will present to him the substance of the note of the Costa Rican minister of foreign affairs and urge Panama to accept the proposal contained therein—namely, that the entire controversy be submitted to the impartial arbitration of the Chief Justice of the United States or to an Associate Justice of the Supreme Court.

At the same time you may intimate that if for any reason it is not deemed desirable to have as arbitrator either the Chief Justice or an Associate Justice of the Supreme Court some other high judicial officer of this Government can be selected.

I am, etc.

ROBERT BACON.

File No. 2491/40.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, November 21, 1908.

MR. SECRETARY: On various occasions I have had the honor of explaining to your excellency the state of the boundary question pending between the Republics of Costa Rica and Panama and of soliciting the mediation and impartial good offices of your excellency's Government in order to procure a satisfactory solution of the present situation, which unfortunately constitutes a cause of unrest in both countries to the impairment of their reciprocal interests and of the feeling of good will and amity which has always united the Costa Ricans and the Panamans.

On the 19th of December last the Department of State, in answering my note of the 9th of that month, saw fit to accede to my request in terms that evoked the gratitude of my Government, which for a moment contemplated the immediate realization of the fervent desire to see its only pending controversy of an international character closed and settled forever. But the presidential campaign which began shortly afterwards in Panama forestalled the opening of any negotiations whatever.

It is the belief of my Government that the present would perhaps be a propitious time for entering into negotiations with Panama through the medium of the legation of that Republic in Washington, and with the just and impartial mediation of your excellency's Government, which therefore Costa Rica now solicits anew, invoking, besides other considerations, the repeated proofs of the sincere and cordial friendship of the United States toward the sister Republics of Costa Rica and Panama, and most especially the marked interest which your excellency evinces in everything that tends to the just and honorable settlement of any differences between the countries of the American Continent.

In most respectfully making the foregoing request in conformity with special instructions from my Government, I avail myself, etc.

LUIS ANDERSON.

File No. 2491/40.

The Acting Secretary of State to Minister Squiers.

No. 137.]

DEPARTMENT OF STATE,
Washington, December 1, 1908.

SIR: The department has received a note from the Costa Rican Legation, dated November 21, 1908, a copy of which is inclosed, asking the impartial good offices and mediation of the United States in order to bring about a satisfactory adjustment of the boundary dispute between Panama and Costa Rica. The records of your legation will show that on December 9, 1907, the Costa Rican Government requested an impartial arbitration of the controversy by the Chief Justice of the Supreme Court of the United States, but that no serious progress seems to have been made toward the settlement of the question either by direct negotiation or by arbitration.

You will state to the Panama minister of foreign affairs that the Government of the United States would be very happy to extend its impartial good offices and mediation to Panama and Costa Rica, in the hope that the boundary dispute, which has existed for years, may be settled to the satisfaction of each of the contending parties within the very near future.

I am, etc.,

ALVEY A. ADEE.

File No. 2491/40.

The Acting Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, December 1, 1908.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st ultimo, in which, referring to the department's note

of December 19, 1907, you request the use of the good offices of this Government to bring about a settlement of the boundary dispute between Costa Rica and Panama.

In reply I have the honor to say that the Government of the United States is anxious that the boundary dispute between Costa Rica and Panama may be satisfactorily and speedily settled, and it will cheerfully extend its impartial good offices and mediation in order to facilitate the adjustment of the controversy.

The department notes with pleasure the statement in your excellency's note to the effect that the attitude of the United States has met with the approval of your Government.

Accept, etc.,

ALVEY A. ADEE.

File No. 2491/47.

Minister Squiers to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Panama, December 24, 1908.

Referring to your instructions 77, December 24, 1907, and 137, December 1, 1908, minister for foreign affairs advises me that his Government accepts in principle submission of the boundary question between Panama and Costa Rica to impartial arbitration of the Chief Justice of the United States, but wishes to know which questions are to be submitted. The Government is inclined to adhere to boundary line as fixed upon by the Loubet award and article 3 of the constitution.

SQUIERS.

File No. 2491.

The Acting Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, December 26, 1908.

EXCELLENCY: Referring to previous correspondence concerning the disputed boundary between Costa Rica and Panama I have the honor to inform you that the department is in receipt of a telegram, dated the 24th instant, from the American minister to Panama, in which he says that he is informed by the Panaman minister for foreign affairs that the Government of Panama accepts in principle the submission of the boundary question to the impartial arbitration of the Chief Justice of the United States, but would like to know what questions are to be submitted.

The telegram adds that the Government of Panama is inclined to adhere to the boundary line as fixed upon by the Loubet award and article 3 of the constitution.

Accept, etc.,

ROBERT BACON.

File No. 2491/48.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, December 28, 1908.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note, dated the 26th instant, in which you were pleased to inform me that the department received a telegram from the American minister to Panama, conveying the information that the Government of that Republic accepts in principle the submission of the boundary question between Costa Rica and Panama to the impartial arbitration of the Chief Justice of the United States, but would like to know what questions are to be submitted.

In reply, with the object to join the desire of his excellency the minister of foreign affairs of Panama, I have the honor to say:

As I have expressed to your excellency, the award of his excellency Mr. Loubet, the President of the French Republic, did not decide the boundary question between Costa Rica and Colombia (now Panama), by "fixing a line that should permanently and clearly divide the territory of the first from that of the second," as it was graphically expressed in the convention concluded between the two countries on December 25, 1880, by virtue of which the high judge pronounced his decision. The sentence is both vague and indefinite, and its meaning, moreover, was abandoned to an ulterior understanding between the litigant Governments. The question having thus been left open, the interested countries remained without having been able to reach an agreement; but, on the contrary, the award in what it refers to the boundary line on the Atlantic side offered ground to various interpretations, among them to that given by Colombia, which goes beyond the limit of the disputed territory—a pretension, by the way, that, if it would prevail, would dispose of all the legal force of said award, as it would bring forth the defect of *ultra petita*, which, as it is well known, would cause the invalidation of any sentence of this nature.

In view of the foregoing I believe that it would be advisable to submit the whole boundary question to a decision to be given in clearer and more definite terms than the Loubet award, thus determining the rights of each of the two countries; but, as Panama, according to the dispatch of his excellency Mr. Squiers, which your excellency deigned to communicate to me, is inclined to adhere to the boundary line as fixed upon by the Loubet award and article 3 of the constitution of that Republic, I beg leave to suggest that the points to be submitted to a new arbitration, which Costa Rica desires and Panama accepts its principle, be as follows:

I. Whether the Loubet award is free from defects that, according to the principles of international law, impair its legal force.

II. If, considering that the award is not thus defective, to determine what its meaning is, and through which points the frontier line shall be drawn.

Be pleased, etc.,

LUIS ANDERSON.

File No. 2491/48.

The Acting Secretary of State to Minister Squiers.

No. 143.]

DEPARTMENT OF STATE,
Washington, December 30, 1908.

SIR: Referring to your telegram of the 24th instant, I inclose a copy¹ of a note from the Costa Rican special envoy, in which he states the questions relating to the disputed territory between Costa Rica and Panama which his Government desires submitted to a new arbitration.

I am, etc.,

ROBERT BACON.

File No. 2941/48.

The Secretary of State to Minister Squiers.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 31, 1908.

Mr. Root acknowledges legation's telegram of December 24, and says that while the Costa Rican special envoy thinks it is advisable to submit the whole boundary question to a decision which will be clearer and in more definite terms than the Loubet award, suggests, in deference to Panama, that following points be submitted to new arbitration:

1. Whether the Loubet award, according to principles of international law, is free from defects that impair its legal force.

2. If the award is not considered thus defective, to determine its meaning and through what points the frontier line shall be drawn.

File No. 2491/50-52.

Minister Squiers to the Secretary of State.

[Extract.]

No. 410.]

AMERICAN LEGATION,
Panama, January 1, 1909.

SIR: Referring to department's instructions (file No. 2491/40) serial No. 137, December 1, last, respecting the Costa Rica boundary dispute, I have the honor to transmit herewith a copy of my note of December 21, last, to the minister for foreign affairs, and his reply of December 26, with translation.

I have received department's last instructions of December 16, last,² and department's cable of December 31, the latter of which I shall immediately bring to the notice of the Panaman Government.

I have, etc.,

H. G. SQUIERS.

¹ Supra.² Not printed.

[Inclosure.]

Minister Squiers to the Minister for Foreign Affairs.

No. 166.]

AMERICAN LEGATION,
Panama, December 21, 1908.

YOUR EXCELLENCY: Referring to legation note, No. 78, January 14, 1908, and Mr. Aria's esteemed reply No. 40/11, February 18, 1909, respecting the boundary treaty between Costa Rica and Panama, I have the honor again to bring this important matter to your excellency's attention. The Government of Costa Rica has solicited the good offices of my Government in procuring a satisfactory solution of the long-pending question, which is the cause of unrest in both countries, impairing their reciprocal interests and feeling of good will and amity which have always united the two peoples.

My Government expressly directs me to state to your excellency that the United States would be happy to extend its impartial good offices and mediation to Panama and Costa Rica, in the hope that the boundary dispute, which has existed for many years, may be settled to the satisfaction of each of the contending parties within the very near future.

I avail myself, etc.,

H. G. SQUIERS.

[Inclosure 2—Translation.]

The Minister for Foreign Affairs to Minister Squiers.

No. 57/11.

FOREIGN OFFICE,
Panama, December 28, 1908.

MR. MINISTER: Referring to your excellency's esteemed note of the 21st instant, No. 166, in which your excellency informs me that the Government of Costa Rica has solicited the good offices of your excellency, for the purpose of securing a satisfactory solution of the pending boundary question with Panama.

At the same time I note with much pleasure that the Government of the United States has kindly offered its friendly services, with the hope that the controversy respecting limits will be terminated to the satisfaction of the parties interested.

My Government highly appreciates the offer which has been made by the American Nation through your excellency for a prompt and happy solution of this important matter, and I am especially pleased to repeat in writing what I have already stated orally to your excellency: that my Government has resolved to very soon establish a legation in San Jose de Costa Rica for the purpose of settling this question in a friendly manner.

At the same time it affords me great pleasure to state to your excellency that the Panaman Government is animated with a desire respecting the suggestion of your excellency of submitting the settlement of this matter to the able and impartial arbitration of the Chief Justice of the Supreme Court of the United States, which it accepts in principle, and being under the obligation, as my Government is, to adhere to the terms of the award rendered by President Loubet in September, 1900, and also a compliance with the provisions of Article III of the national constitution being obligatory upon the Republic of Panama, my Government desires to know, before coming to a conclusion relative to arbitration, the points to be considered by the tribunal of arbitration.

I avail, etc.,

J. A. ARANGO.

File No. 2491/48.

*The Acting Secretary of State to the Costa Rican Minister on Special Mission.*DEPARTMENT OF STATE,
Washington, January 6, 1909.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo in which, in answer to the department's note of the 26th ultimo, you state the questions in the boundary dispute

between Costa Rica and Panama which your Government desires to have submitted to a new arbitration.

I have the honor to say that your note has been communicated to the American minister to Panama in substance, and in copy by mail.

I avail, etc.,

ALVEY A. ADEE.

File No. 2491/54-56.

Minister Squiers to the Secretary of State.

[Extract.]

No. 416.]

AMERICAN LEGATION,
Panama, January 12, 1909.

SIR: In continuation of my dispatch No. 410 of January 1, last, regarding the Costa Rica-Panama boundary dispute, I have the honor to inclose herewith copy of my note No. 174, of January 2, to the foreign office, and reply thereto of January 9, with translation.

I have, etc.,

H. G. SQUIERS.

[Inclosure 1.]

Minister Squiers to the Minister for Foreign Affairs.

No. 174.]

AMERICAN LEGATION,
Panama, January 2, 1909.

YOUR EXCELLENCY: I have the honor to communicate to your excellency the text of a cable (copy inclosed), which I have just received from the Department of State, respecting the Panama-Costa Rica boundary, and in reply to my cable of December 24, of which your excellency has a copy.

I have requested in a formal note a conference with you, at which I desire to discuss the question set forth in the inclosed cable.

I avail myself of the occasion to wish your excellency and your people, during the coming new year, every happiness, success, and prosperity, and to assure your excellency, etc.

H. G. SQUIERS.

[Inclosure 2—Translation.]

The Minister for Foreign Affairs to Minister Squiers.

No. 8/11.]

FOREIGN OFFICE,
Panama, January 9, 1909.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's esteemed note of the 2d instant, in which your excellency incloses a copy of a cable-gram relative to the boundary question between Panama and Costa Rica, from the Department of State of the United States of America to your excellency in reply to a former cable from your legation.

As I have already had the honor to state verbally to your excellency my Government declines to submit the point to a new decision, and is resolved to accredit to San Jose de Costa Rica a Legation, to the end that in an amicable manner the two Republics may arrive at a final arrangement of this important matter. However, if after having exhausted all proper methods of said negotiations, the desired result has not been obtained, my Government will then be pleased to accept the good offices of that of your excellency, and forthwith with pleasure will submit to the distinguished opinion of the honorable Chief Justice of the Supreme Court of the United States any and all of the points which may be the cause of disagreement, in fixing the boundary line between the two countries, in accordance with the Loubet award.

I avail, etc.

J. M. FERNANDEZ.

File No. 2491/54-56.

The Secretary of State to Minister Squiers.

No. 150.]

DEPARTMENT OF STATE,
Washington, January 23, 1909.

SIR: Your dispatch, No. 416, of the 12th instant, in relation to the Costa Rican-Panama boundary controversy, has been received. You report the result of your action upon the department's telegraphic instructions of December 31, proposing points to be submitted to a new arbitration, and inclose copy of the reply of the Ministry for Foreign Affairs. It is therein stated that Panama declines to submit the matter to a new decision at this time; that it is intended to send to Costa Rica a mission in order that the two Republics may arrive at an amicable settlement; and that, in the event of a failure to arrive at such a settlement, after exhausting all proper efforts, Panama will then be pleased to accept the good offices of the United States and to submit the question to the Chief Justice of the United States.

For three years and more this Government has repeatedly and urgently shown its earnest desire and expectation that the conflicting claims of Panama and Costa Rica in regard to their common boundary should be set at rest. The interest of the United States in seeing the dispute settled has been continuously manifested and the grounds of our interest clearly set forth. At the time of Panama independence there were important American interests on the border, upon the Sixola River, to which rival American citizens were claimants. The determination of their conflicting claims was and still is dependent upon the issue of the question of sovereign title to the territory and sovereign jurisdiction over controversies arising therein. The situation thus arising has been from the outset most embarrassing and vexatious to the United States and this embarrassment and vexation must continue so long as the determination of sovereign title is in suspense.

This Government welcomed with gratification the institution of negotiations between Panama and Costa Rica looking to a final fixation of their common boundary. It put forward every friendly effort toward the ratification of the treaty signed by them March 7, 1905. The consummation of that treaty was indefinitely deferred because of the amendment introduced in the Panama act of ratification. Again our efforts were put forth to effect a renewal of negotiations on conventional lines. Thereupon Costa Rica proposed arbitration. The United States supported this proposal as having become apparently the only manner of bringing about the settlement of a controversy the continuance of which bore so heavily on American interests. The acceptance of the arbitration in principle by Panama on December 24 last was hailed by us with a feeling of relief, as a hopeful augury of a speedy disposition of the question. The communication now made to you by Señor Fernandez holds the Panaman acceptance in abeyance by contingently deferring the resort to arbitration to await the uncertain outcome of a proposal to reopen direct negotiations for adjustment of the dispute by mutual agreement. This step is disappointing, because tending to excite our apprehension that this fresh resort to direct negotiations may prove as ineffectual

as previous efforts in that direction, and may turn out to have merely dilatory results so far as a final settlement is concerned, and that an agreement may be found as remote as at the beginning of the dispute.

All this constrains the Government of the United States to the conclusion that the conditions existing for years and still existing are such as they force the United States in justice to its own citizens to treat the de facto line as the line to the north of which Costa Rica has jurisdiction and to the south of which Panaman jurisdiction is recognized. In other words to hold that, in as much as the territory northward of the de facto line is left by Panama within the actual jurisdiction and control of Costa Rica, Panama is estopped by her own act from objecting to the United States treating it as Costa Rican territory, and looking to Costa Rica to remedy the annoying and embarrassing situation caused to this Government and to its citizens by the absence of responsible jurisdiction in that quarter.

You will make the position of the United States in this regard clear to the Panaman minister for foreign affairs by reading this instruction to him and handing him a copy.

I am, etc.,

ELIHU ROOT.

File No. 2491/54-56.

The Secretary of State to Minister Squiers.

No. 153.]

DEPARTMENT OF STATE,
Washington, January 30, 1909.

SIR: Referring to department's instruction to you of the 23d instant, concerning the attitude of the United States regarding the boundary controversy between Panama and Costa Rica, I have to say that the present attitude of this Government is the logical consequence of its instruction to Minister Magoon of April 16, 1906,¹ a copy of which is inclosed, not only for your information, but for presentation to the Panaman minister of foreign affairs, in order to show not only the constant attitude of the United States, but the necessity of such attitude for the protection of the property interests of American citizens in the disputed territory.

I am, etc.,

ROBERT BACON.

File No. 2491/58.

The Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, February 16, 1909.

SIR: Referring to previous correspondence concerning the disputed boundary between Costa Rica and Panama, I have the honor to inform you that the rights of American citizens to property situated within the disputed districts are deeply involved and that each succeeding year renders it more important to the United States that a permanent status be established in the territory in dispute between Costa Rica and Panama, in order that the just rights of American citizens be recognized and safeguarded.

¹ See Foreign Relations, 1906, p. 1201

Negotiations have been transferred to Costa Rica, and the department earnestly hopes that the boundary dispute may be arranged to the satisfaction of Costa Rica and Panama. Should, however, an adjustment of the controversy be delayed or no adjustment made in the near future, the Government of the United States will be constrained to the conclusion that the conditions existing for years and still existing are such that they force the United States, in justice to its own citizens, to treat the de facto line as the line to the north of which Costa Rica has jurisdiction and to the south of which Panaman jurisdiction is recognized. In other words, to hold that, inasmuch as the territory north of the de facto line is left by Panama within the actual jurisdiction and control of Costa Rica, the United States must, in the interest of its citizens, treat it as Costa Rican territory, and look to Costa Rica to remedy the annoying and embarrassing situation caused to the United States and its citizens by the absence of responsible jurisdiction in that quarter.

Accept, etc.,

ROBERT BACON.

File No. 2491/58.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, February 23, 1909.

MR. SECRETARY: I have the honor to acknowledge receipt of your excellency's communication of the 16th instant, wherein, with reference to the pending negotiations for the final settlement of the boundary question between Costa Rica and Panama, your excellency deigns to express the importance to the United States of the establishment of a permanent status in the territory in dispute, in order that the just rights of American citizens established therein be recognized and safeguarded. Your excellency adds that the negotiations, having been transferred to Costa Rica, the department earnestly hopes that the boundary dispute may be arranged to the satisfaction of both parties, and that—

Should, however, an adjustment of the controversy be delayed or no adjustment made in the near future, the Government of the United States will be constrained to the conclusion that the conditions existing for years and still existing are such that they force the United States, in justice to its own citizens, to treat the de facto line as the line to the north of which Costa Rica has jurisdiction and to the south of which Panaman jurisdiction is recognized. In other words, to hold that, inasmuch as the territory north of the de facto line is left by Panama within the actual jurisdiction and control of Costa Rica, the United States must, in the interest of its citizens, treat it as Costa Rican territory and look to Costa Rica to remedy the annoying and embarrassing situation caused to the United States and its citizens by the absence of responsible jurisdiction in that quarter.

My Government, which appreciates fully the importance of the good offices of that of the United States toward a just solution of the boundary dispute with Panama, regrets that it should not have been possible at the present time to arrive by this means at the immediate settlement that it desires so much, but it hopes at the same time that the negotiations which are about to be initiated in San Jose de Costa Rica, through the legation that Panama will send there with that purpose, will bring forth an understanding that will obliterate forever

the only difference that has existed between the friendly and sister Republics of Costa Rica and Panama.

If, contrary to what is expected, the definite settlement should be delayed, it pleases me to state solemnly to your excellency that the interests of the citizens of the United States in all the disputed territory over which Costa Rica exercises its jurisdiction will have, as they have at all times had, the ample and most efficient protection granted by our laws. To this effect I deem it opportune to tell your excellency, as I have had occasion to inform the Department of State, that the line which defines the present territorial jurisdiction of Costa Rica to the south is "the River Sixola from its outlet on the Atlantic up to its junction with the River Yurquin; thence following in almost a straight line the watershed to end in Punta Burica on the Pacific."

This is the status quo that has been maintained for many years and that the convention of December 25, 1880, ratifies. In said convention it is expressly agreed between Costa Rica and Colombia that while the boundary question and the designation of frontiers are not decided the status quo will be maintained. This pact, together with the actual control exercised by Costa Rica, constitutes the title with which my country maintains its sovereignty over the territory northward of the frontier line above set forth. My Government accepts with real gratification the statement contained in the last part of your excellency's note, because, as such sovereign, it takes upon itself unreservedly all the responsibilities inherent to the exercise of jurisdiction; and the Government of your excellency can therefore rest assured that the Government and the courts of justice of Costa Rica will give all the necessary and effective protection to the just and legitimate interests that citizens of the United States, or of any other nation, may have in that territory.

Before closing this communication, which terminates the present negotiation, I wish to express once more to your excellency the deep appreciation of the Costa Rican Government and my own for the kind deference and good will with which the Department of State has been ready to cooperate toward the satisfactory solution of the boundary question between Costa Rica and Panama, and for the repeated proofs of personal consideration with which your excellency has been kind to oblige me.

LUIS ANDERSON.

File No. 2419/68-74.

The Minister of Panama to the Secretary of State.

[Translation.]

No. 17.]

PANAMA LEGATION,
Washington, July 30, 1909.

EXCELLENCY: Pursuant to instructions received from the secretary of foreign relations of my country I have the honor to place in your excellency's hands a memorandum containing a clear statement of the controversy between the Republics of Panama and Costa Rica about their boundary line.

With a view to bringing to an end and final solution the anomalous situation that has been observed in this matter for more than half a century between the two Republics, my Government, relying on the enlightened judgment and righteous decision of your excellency's

Government, and, considering that the Government of the United States undertook by a solemn treaty with my country to recognize and maintain the independence and sovereignty of the Republic of Panama, respectfully submits the contents of the annexed memorandum to your excellency's consideration.

I append various documents referred to in the memorandum, together with a map of the region lying between the two Republics.

I avail, etc.,

C. C. AROSEMANA.

[Inclosure—Translation.]

Memorandum regarding boundaries between the Republics of Panama and Costa Rica.

PANAMA, July 10, 1909.

I.

When, upon seceding from the mother country, Colombia and Costa Rica constituted themselves free and independent nations, the problem arose regarding the fixation of the boundary line between the two Republics. Direct negotiations were begun with a view to determining this line, these negotiations culminating successively in the public treaties known as the Gual-Molina treaty of 1825, the Herran-Calvo treaty of 1856, the Venezuela-Castro treaty of 1865, and the Correso-Montufar treaty of 1876; but nevertheless the end sought was not attained.

Both Colombia and Costa Rica, being convinced of the futility of their efforts to reach a practical result by means of direct negotiations, resolved in 1876 to appeal to the system of arbitration in the hope of terminating, forever and irrevocably, the controversy which had existed between them since the time they ceased to be Spanish dependencies.

With a desire to accomplish this purpose they proceeded to conclude, at San Jose, Costa Rica, on December 25, 1880, the first arbitration convention, known by the name of Quijano Otero-Castro, in which His Majesty King Alfonso XII was designated to act as arbitrator, and which never went into effect owing to the death of the latter.

By this convention the parties pledged themselves to accept the award, as is seen from article 4, which reads as follows:

ARTICLE 4. The arbitrator, after hearing orally or in writing the parties or party who appear, and after considering the documents which they produce or the arguments which they present, shall render his award without further formality; and this award, whatever it be, shall at once be as a concluded, perfect, binding, and irrevocable treaty between the high contracting parties, who hereby formally and expressly waive any reclamation of whatever nature against the arbitral decision and obligate themselves to respect and carry out promptly, faithfully, and forever, pledging the national honor to this end.

Clauses 2 and 3 of this new convention indicated the maximum boundaries of both Republics. They were as follows:

ARTICLE 2. The territorial boundary claimed by the United States of Colombia reaches on the Atlantic side to Cape Gracias a Dios, inclusively, and on the Pacific side to the mouth of the Golfito River in Dulce Gulf. The territorial boundary claimed by the Republic of Costa Rica reaches on the Atlantic side the island of Escudo de Veraguas and Chiriqui (Calobobora) River, inclusive, and on the Pacific side as far as the Chiriquiviejo River, inclusive, to the east of Burica Point.

ART. 3. The arbitral award shall be confined to the disputed territory lying within the extreme limits already described, and it shall not in any wise affect the rights which a third party who has not taken part in the arbitration may allege to the ownership of the territory comprised between the boundaries indicated.

Finally, on November 4, 1896, Messrs. Jorge Holguin and Ascencion Esquivel signed a third arbitration convention at Bogota, which the Colombian Congress approved by law 71 of that year, and the purpose of which was to carry out the conventions concluded at San Jose, Costa Rica, on December 25, 1880, and at Paris on January 20, 1886, approved in accordance with article 3 of this latter convention.

The final paragraph of article 4 of this third convention embodies a previous acceptance of the award, as follows:

The arbitral award, whatever it be, shall be considered as a perfect and binding treaty between the high contracting parties and shall not be subject to any appeal. Both parties pledge themselves to carry it out faithfully and waive any protest against the decision, to which end they pledge the national honor.

The President of the French Republic was chosen as arbitrator in the first place, according to article 2, and he having accepted the high office in the manner prescribed by article 4 the arbitration proceedings were begun within the period fixed.

After the parties had been heard and the respective allegations of each litigant had been transmitted to the other party the high judge, Mr. Emile Loubet, in view of the documents and evidence which Colombia and Costa Rica had seen fit to present and before the expiration of the period set for the purpose, rendered his award at Rambouillet on September 11, 1900, it having been published on the 15th of the same month and year for the notification of the parties, as follows:

LOUBET AWARD.

I, the President of the French Republic, arbitrator by virtue of the treaty signed on November 4, 1896, at Bogota by the Republics of Colombia and Costa Rica, which act confers upon me full powers to determine, in accordance with the principles of law and with historic precedents, the boundaries which should be fixed between the aforementioned two nations, in view of all the documents presented by the contending parties, and especially—

1. As regards Colombia:

The statement of Mr. Francisco Silvela, attorney for the Colombian legation in Spain.

The second and third allegations, presented in behalf of Colombia by Mr. Poincaré, attorney of the court of appeals of Paris.

An opinion by Mr. Maura, deputy to the Spanish Cortes, president of the Academy of Jurisprudence of Madrid, regarding the boundary question between Colombia and Costa Rica.

Another opinion by Dr. Simon de la Rosa y Lopez, professor of political law at the University of Seville, and his collaborators.

A chronological summary of the territorial titles of Colombia.

And the numerous maps and texts, original or translated and notated, furnished by the representative of Colombia, specially accredited to the French Government in connection with the present controversy.

2. As regards Costa Rica:

The works of Mr. Manuel M. de Peralta, envoy extraordinary and minister plenipotentiary of the Republic of Portugal at Paris, entitled "Boundaries of Costa Rica and Colombia," "Costa Rica and Mosquito Coast," and "Territorial jurisdiction of Costa Rica."

A statement of the territorial titles of the Republic of Costa Rica.

The reply to the statement of the Republic of Colombia.

The historico-geographical atlas of Costa Rica, Veraguas, and the Mosquito Coast.

The volume of Mr. Peralta, "Historical geography and territorial rights of Costa Rica, etc."

And, in general, all the decisions, stipulations, royal orders, writs, royal decrees, and laws issued and promulgated by the old Spanish monarchy, absolute sovereign and having free disposal of the territories which then formed part of the two Republics.

Having proceeded to make a careful and thorough study of said documents produced by the parties, and especially of the royal decrees of July 27, 1513, and September 6, 1521; the royal writ of April 21, 1529; the royal decrees of March 2, 1837, January 11 and May 9, 1841, January 21, 1857, February and July 18, 1860, August 5 and 9, 1861, September 8, 1863, June 28, 1868, and July 17, 1872; of the stipulations of Pardo of December, 1873; of the Digest of the Laws of India of 1660, particularly of Laws IV, VI, and IX of this digest; of the royal decrees of July 21 and November 13, 1722, of August 29, 1749, May 24, 1740, October 31, 1742, and November 30, 1756; of the various instructions issued by the Spanish sovereign to the superior authorities of the vice regency of Santa Fe and of the captaincy general of Guatemala during the course of the eighteenth century and subsequent years; of the royal orders of 1893 and 1895; of the stipulations of the treaty concluded in 1825 between the two independent Republics, etc.

And being convinced of the importance of the high mission that has been conferred upon me, as well as of the extremely high honor that has been done me by designating me as judge in the present dispute, having neglected nothing in order to gain an exact account of the titles invoked;

DECIDE

The boundary between the Republics of Colombia and Costa Rica shall be formed by the spur of the mountain range starting from Cape Mona on the Atlantic Ocean and closing on the north the Tarire River Valley in the Sixola River; then by the ridge dividing the waters between the Atlantic and Pacific to 9° of latitude approximately; it shall then follow the line which separates the waters of Chiriqui Viejo and the affluents of Dulce Gulf, terminating at Burica Point on the Pacific Ocean.

With respect to the islands, groups of islands, islets, and bars situated in the Atlantic Ocean in the vicinity of the coast to the east and southeast of Mona Point, these islands, whatever may be their number and area, shall form part of the Colombian jurisdiction, and those situated to the west and northwest of said point shall belong to the Republic of Costa Rica.

With regard to the islands situated farther from the continent and comprised between the Mosquito coast and the Isthmus of Panama, especially Mangle Chico, Mangle Grande, Albulquerque Keys, San Andres, Santa Catalina, Providencia Escudo de Veraguas, as well as any other islands, islets, and bars which formerly belonged to the ancient province of Cartagena under the denomination of Canton of San Andres, it is understood that the territory of these islands, without any exception, belong to the United States of Colombia.

On the Pacific Ocean Colombia shall likewise possess all the islands situated to the east of Burica Point, counting from and including Burica Islands, and those to the west of said point are awarded to Costa Rica.

[Signed at Rambouillet in duplicate, on September 11, 1900.]

EMILE LOUBET.

This award was entirely in accordance with the conditions stipulated in the arbitration convention signed at Bogota on November 4, 1896.

II.

The award having been rendered in accordance with the stipulations of the convention of 1896, Colombia, and Costa Rica, in view of the last paragraph of article 4, were confronted by a final judgment beyond objection or appeal, not only by its very nature but by virtue of an express agreement contracted before it was rendered, which agreement conferred upon it the character of a *res judicata* and dispensed with the formality of subsequent acceptance.

Nevertheless, although it was not necessary, Colombia and Costa Rica recognized the award rendered at Rambouillet as final in the boundary dispute. This is known to the State Department of the United States, as is seen in the note addressed on April 16, 1906, by Mr. Elihu Root to the honorable Charles E. Magoon, envoy extraordinary and minister plenipotentiary of the United States to the Republic of Panama.

On November 3, 1903, the Republic of Panama arose to independent life and by this act of transcendental importance it assumed the rights and obligations resulting from the compacts which Colombia had concluded with Costa Rica or from the awards arising from such compacts. This was the way Costa Rica regarded the matter, as is stated in the note addressed on April 6, 1904, by the secretary of foreign relations of that country to the secretary of foreign relations of Panama, as follows:

The independence of the Republic of Panama has now permanently withdrawn from the Bogota foreign office the negotiations looking to a fixing of the boundary line between our territory and that of our new neighbor.

One of the first acts of the provisional government of the Republic of Panama was to furnish a proof that the new Republic also recognized the Loubet award as final, and in creating the Province of Bocas del Toro and determining its boundaries, in decree No. 18 of November 16, 1903, it said that it considered the following to be the boundaries: "On the northwest the dividing line between this Republic and Costa Rica, according to the arbitral award of the President of the French Republic." This decree has force of law in accordance with article 145 of the Panama constitution.

This recognition by the Provisional Government was expressly ratified in the constitution itself, when, in defining the territory of the Republic, it provides as follows:

ARTICLE 3. The territory of the Republic is composed of all that territory out of which was formed the State of Panama by an amendment to the Granada Constitution of 1853, made on February 27, 1855, it having been transformed in 1886 into the Department of Panama, with its islands and the continental and insular territory adjudicated to the Republic of Colombia by the award rendered on September 11, 1900, by the President of the French Republic. The territory of the Republic is subject to the jurisdictional limitations stipulated or to be stipulated in the public treaties concluded with the United States of North America for the construction, maintenance, or sanitation, of any means of interoceanic transit.

The boundaries with the Republic of Colombia shall be determined by public treaties.

It is evident that the various nations which have been concerned as parties in this controversy over the boundaries of the new Panama and Costa Rica have agreed in regarding as final and conclusive the award rendered at Rambouillet on September 11, 1900, by the President of the French Republic in his capacity as arbitrator appointed by Colombia and Costa Rica, which award was rendered in accordance with the arbitration convention signed for the purpose at Bogota on November 4, 1896.

III.

Colombia was suffering an unfortunate period of civil war, which began in 1899 and ended in 1902, when the award was rendered which closed forever the long boundary dispute with Costa Rica. The internal political situation absorbed the whole attention of the Bogota Government and it was unable to devote its mind to the solution of the great vital problems pending between it and foreign countries. Nevertheless, being conscious of the importance of the boundary matter, its envoy extraordinary and minister plenipotentiary to the Mexican and Central American Governments, Mr. Lorenzo Marroquin, in obedience to instructions from Bogota, on February 27, 1901, stated as follows to the Costa Rican Government in a note addressed to Mr. Justo a Facio, at that time minister of foreign relations of said Government:

Moreover, the Colombian Government believes itself under obligations to give attention to the territories which said award (the French award) recognizes as a portion of its dominions, by establishing custom-houses and customs officials, founding military and agricultural colleges, introducing a missionary service, providing for political and judicial administration, and employing means conducive to the furtherment of the wealth, development, and progress of the regions whose boundaries are defined.

Thus, and refraining from stating other reasons with which I do not wish to tire your excellency, the Government of Colombia will send commissioners about the middle of next September to take possession of the territories adjudicated to it by the Loubet award and to deliver to Porto Rico those belonging to it.

In Colombia the civil war grew in proportions and with it came the crisis which became constantly aggravated to the visible detriment of the public administration until the end of 1902, when peace was permanently restored.

Colombia had not passed 12 months of tranquil existence when she was taken by surprise by our secessionary movement of November 3, 1903.

The ancient department of Panama having become a free and independent nation, the new Republic proceeded to give itself a suitable organization and hardly had its first constitutional President assumed his office when Costa Rica, which had accredited a legation at Bogota for the purpose of carrying out in a friendly manner the fixing of the boundary line between Costa Rica and Colombia, began negotiations with this office on April 6, 1904, for the same purpose, namely, the fixing of the boundary line between Panama and Costa Rica.

The circumstances mentioned both with respect to Colombia and Panama, kept the execution of the Loubet award in suspense from 1900, the date of its promulgation, to the middle of 1904.

IV.

At the beginning of July, 1904, the Costa Rican Government decided to send an extraordinary mission to this capital, and established a legation here in charge of Mr. Leonidas Pacheco.

Panama, though not ceasing a moment in her conviction that Costa Rica is under obligation to respect and strictly carry out an award having all the features, force, and value of a final judgment, nevertheless did not hesitate, owing to the spirit of friendship which she cherishes for her neighbor and sister, in listening to the complaints made by Costa Rica against the award, which, in the judgment of the latter, injured her interests located in the valleys of the tributaries of the Sixaola, above the Yorquin, which complaint she has formally presented to Colombia in the hope of acquiring dominion over these territories.

In view of these complaints, and after an emphatic declaration had been made that our boundary dispute with Costa Rica "was settled by the award rendered by his excellency the President of the French Republic at Rambouillet on September 11, 1900," there was signed in this capital on March 6, 1905, the treaty ad referendum known by the name of Guardia-Pacheco, which treaty, as attested to by Mr. John Barrett, envoy extraordinary and minister plenipotentiary of the United States in Panama, in his note to the plenipotentiaries under date of March 6, 1905, "will bind Panama and Costa Rica together forever by the closest ties as neighboring and sister Republics, chiefly because the line adopted grants great material and territorial compensations as well as moral advantages to both nations without injuring either in any respect"—the treaty which, finally, to a certain extent constituted the effectual carrying out of the Loubet award.

Having been submitted to the national assembly this treaty was approved by law 6 of January 26, 1907, which inserted certain elucidations "aclaraciones" in it which were deemed necessary by the national parliament.

The approving law of 1907 terminated with the following article:

ART. 2. If the Republic of Costa Rica does not approve this treaty at the latest during the next regular session of its legislature, the executive is authorized to suspend the action of this law and require the execution of the Loubet award.

The foregoing circumstances created an abnormal situation, which was entirely outside of the law which was tolerated by the parties, and according to which Panama exercised temporary de facto sovereignty over territories whose de jure sovereignty belonged to Costa Rica, and in turn exercised temporary de facto sovereignty over regions whose de jure sovereignty belonged to Panama, but the continuation of this state of affairs depended tacitly on the ratification of the treaty of March 6, 1905.

The note of the State Department of the United States, addressed to the Hon. Charles E. Magoon on April 16, 1906, and to which reference was made before, confirms this doctrine.

V.

It having become known to this Government that the elucidations inserted into the Guardia-Pacheco treaty of law 6 of 1907 constituted an obstacle to the Congress of Costa Rica granting its approval to it, and Panama being anxious to have this long, annoying controversy effectively concluded, she found no objection to declaring that in face of the discussions incident to the resumption of the case she was willing to obtain from the next national assembly a revision of law 6 of 1907, so as to eliminate the aforementioned elucidations, as is shown in note No. 40/11, addressed to his excellency Herbert G. Squiers, envoy extraordinary and minister plenipotentiary of the United States in Panama, Mr. Ricardo Arias, secretary of foreign relations of this Republic, on February 18, 1908.

The official silence of Costa Rica regarding the fate that had befallen the Guardia-Pacheco treaty in her constitutional congress, induced Panama to establish a legation at San Jose, where our minister was received on April 19 last, he having received the greatest demonstrations of cordial esteem from that Government from the time he arrived.

The first news of an official origin received of the treaty is contained in the following phases found in the message of the President of the Republic to the constitutional congress of our neighboring nation under date of May 1, 1909:

Now that the Pacheco-Guardia treaty has expired, it is necessary, unless there should be an agreement between the two countries indicating the boundary line, to decide which of the two different interpretations of the Loubet award is in conformity with the spirit of the award and with the validity of the procedure, and for this purpose to proceed to a new arbitration.

Upon an express inquiry being made to our minister regarding the fate of the Guardia-Pacheco treaty, the secretary of foreign relations, in a note of June 15, 1909, informed him officially that his Government considered the treaty in question to have expired.

VI.

The Republic of Panama, not without regret, considers exhausted the means within its reach of bringing to a happy termination this long-standing boundary dispute, since it has no objection to agreeing to all the remedies which Costa Rica has deemed satisfactory for this purpose but which she finally rejected, so that, at its request, I now have to state the matter as follows:

An arbitral award, solemn and inappealable, which the national honor had been pledged to strictly respect and faithfully carry out (this agreement having been made even before the award was rendered), adjudicated to the Republic of Colombia a portion of territory which since the birth of the Republic of Panama has formed an integral part of the latter and is thus recognized as the constitution.

The independence of the Republic of Panama is guaranteed by the United States of America in accordance with article 1 of the Hay-Bunau-Varilla treaty, and this guaranty comprises the sovereignty of the nation over all the territory which lawfully belongs to it.

A Panama law, No. 6 of 1907, directs the executive to demand the execution of the arbitral award in case the Guardia-Pacheco treaty is not perfected through the fault of Costa Rica.

Therefore, out of respect to the precepts of the law, strengthened by the justice of its cause, and animated by an earnest desire to put an end to this long and in many ways annoying boundary dispute, the Republic of Panama proposes to demand of Costa Rica a strict enforcement of the Loubet award, in order to supersede the present de facto boundary by the lawful one and permanently close this controversy by determining the territory to which the jurisdiction of each Republic is to extend.

VII.

The objection made by Costa Rica to the Loubet award consists in the fact that, in her opinion, the arbitrator awarded us territories which were not in dispute, for which reasons she has alleged against the award the flaw of "ultra pepita" (beyond the

things asked). This assertion is far from being correct, for the award gives us on the whole much less than what belonged to us according to Columbia. Nevertheless, the Republic of Panama desires to distinguish itself by its spirit of justice, and is willing to respect the concessions of lands which the Costa Rican, Colombian, or Panaman Government may have made in the territories being held temporarily by Costa Rica in her possession as de facto holder and which belongs de jure to Panama, by passing for this purpose special laws applicable to these territories and to these occupants, so that in future they may enjoy the same advantages that they enjoy at present while exercising de facto sovereignty over them; moreover, it does not desire to appropriate a single inch of territory which does not belong to it in accordance with the law.

The boundary prescribed in the award gives no rise to objections on the part of Costa Rica from its terminal point at Burica Point on the Pacific Ocean until it passes through the ninth degree of latitude approximately, as is seen in the note of the department of foreign relations of said country dated June 15 of this year.

She also has no objection to the part which follows the ridge dividing the waters between the Atlantic and Pacific, since the Guardia-Pacheco treaty, unopen to objection without the elucidations inserted at the time of its approval, confounds this part with the boundary fixed in it (said treaty) as far as the valley of the Taraira or Tiloría.

Finally, the extreme end of the boundary on the Atlantic—that is, Cape Mona—appears just to her because this point is the same one which serves as a starting point for the boundary fixed in the Guardia-Pacheco treaty. Thus the disagreement is confined to the portion of the award comprised between the upper part of the spur of the mountain range which closes to the north the valley of the Parire River in the Sixola River, and a part of the ridge which divides the waters between the Atlantic and Pacific.

Consequently this last-described portion of the award can not be the one which in her opinion allotted lands to us which were not in dispute.

Now, since article 2 of the second arbitration convention, signed at Paris on January 20, 1886, ratified and therefore in force on this point, according to article 5 of the third arbitration convention, signed at Bogota on November 4, 1896, established with perfect clearness the maximum boundary lines, mutually accepted by virtue of these compacts, which were comprised in the claims (aspirations) of either party, it is evident that lands not included in the dispute which belong to Costa Rica (and are) according to her improperly adjudicated to Colombia must necessarily lie beyond the maximum boundary of Colombia.

VIII.

This office, foreseeing the unfortunate fate which in its opinion awaited the negotiations as conducted up to that time, and with a view to facilitating to the United States Government the fulfillment of the obligations which it contracted toward Panama in accordance with article 1 of the Hay-Bunau Varilla treaty, hastened to accept with pleasure the good offices of said Government in submitting to the enlightened decision of the honorable Chief Justice of the Supreme Court of the United States any point or points which might be a cause of disagreement in fixing the dividing line between the two countries in conformity with the Loubet award, which good offices were offered in note No. 9/11 of January 9, addressed to his excellency Herbert G. Squiers, envoy extraordinary and minister plenipotentiary of the United States at this capital.

The time has come to make use of these good offices.

Panama proposes to ask Costa Rica to carry out the Loubet award, and as the only point which can give rise to disagreement in tracing the line which said award indicates is that portion thereof which closes the valley of the Parire River, this Government is willing to submit to the honorable Chief Justice of the Supreme Court of the United States the final decision as to which of the two boundary lines between Panama and Costa Rica is the correct one in case the Loubet award should pass beyond the maximum boundary of Colombia; whether the line which, in view of the award, was fixed by Colombia and which embraces the valleys of the tributaries of the Sixola, above the Yorquin, or whether this boundary is a line which, starting from Cape Mona on the Atlantic Ocean, follows the spur of the mountain range which starts at the said cape until meeting the line which, according to the arbitration conventions, represents the maximum claims of Colombia; which then follows along this maximum boundary line until intercepting the line prescribed by the award on the ridge which divides the waters between the Atlantic and Pacific, then following this ridge to 9° of latitude approximately, provided Costa Rica enters (acquires) a formal agree-

ment with the United States Government that this decision, whatever it be, shall be accepted by her as final.

By the foregoing proposition the Republic of Panama gives an unequivocal proof of the spirit of justice which animates it, of the respect which it has for the equitable principle of arbitration, and of the consideration which is due the high judge who rendered an award the respect of which strengthens the justice of its cause in a controversy with a friendly nation bound to it by indissoluble traditions of unimpaired confraternity.

S. LEWIS.

File No. 2491/77.

The Minister of Panama to the Acting Secretary of State.

No. 25.]

LEGATION OF PANAMA,

Washington, August 31, 1909.

EXCELLENCY: Referring to the interview which your excellency had the kindness to grant me, and in which I had the honor to place into your excellency's hands a copy of a cablegram from the secretary of foreign relations of my country regarding the procedure of the Costa Rican Government in granting territorial concessions on the left bank of the Sixola River, this being territory which belongs de jure to the Republic of Panama, which is only being administered by Costa Rica by virtue of the present status quo, and which will eventually form part of the Republic of Panama, I have instructions from the secretary of foreign relations of my country to make known to the State Department the conclusions which my Government has reached, taking as a basis the official notes of your excellency's Government to which I have the honor to refer below.

The cablegram from my Government to which I referred above announced that—

Minister Porras reports that the Costa Rican Government continues to make land grants on the left bank of the Sixola, thereby violating the status quo and assailing our rights as sovereign.

It would be suitable to inform the State Department of this procedure on the part of Costa Rica. We have given instructions to Minister Porras to protest.

In view of the conduct being observed by the Government of Costa Rica I deem it suitable to call the State Department's attention to the following points contained in the note of instructions sent by the honorable Elihu Root to the United States minister in Panama, the honorable C. E. Magoon, under date of April 16, 1906, and numbered 37, in which he expresses the following ideas in regard to the boundary dispute between Costa Rica and Panama:

The first of these points is that, in accordance with the Loubet award of 1900, accepted as final by Colombia and Costa Rica, the territory included in the McConnell plantation was adjudicated to Colombia (now Panama) and became subject to the jurisdiction of said country. The second point is that Mr. McConnell, in 1903, penetrated into a part of these lands, planted bananas on a large scale, built houses, and began the construction of a tramway, expended large sums of money in his enterprise, and he alleges that his action was based on the authorization of certain laws of Colombia relating to vacant lands. The third point is that in the pending treaty of March 7, 1905, between Costa Rica and Panama, defining the boundaries between the two Republics, when the line is traced the McConnell concession will be within the jurisdiction of Panama.

The department is not oblivious of Costa Rica's contention that an arrangement has existed between said nation and Panama pursuant to which the former has retained temporary possession and administrative control of the region, and pending the ratification of the treaty of March 7, 1905, she exercises police duties and other general

attributions of de facto sovereignty within the territory. At the same time it can not be denied that the de jure sovereignty has been in Colombia and Panama since the rendering of the Loubet award, accepted as it is by Panama and Costa Rica, so that, either by virtue of this award or by the pending boundary treaty, the territory will eventually be under the jurisdiction of Panama.

* * * * * * *

According to the idea of the department on this subject, Costa Rica now exercises temporary de facto sovereignty over the territory included in the McConnell concession, subject to being lawfully dispossessed at any time at the pleasure of Panama, but in reality continuing until the time when the pending boundary treaty shall be ratified. She exercises the necessary governmental functions for the orderly administration of the district, but she is not to use this sovereignty in such a way as to impair the rights of the de jure sovereign of the territory. Her governmental functions are limited by her tenure, which is of a temporary and uncertain character. Her duty is to preserve property, not destroy it, and to deliver it to her successor without having committed any act tending to impair eventually the rights of the de jure owner.

Under date of the 7th instant the Hon. G. T. Weitzel, chargé d'affaires ad interim of the United States in Panama, sent the following communication to his excellency, Mr. Samuel Lewis, secretary of foreign relations of my country:

I have the honor to state to your excellency that my Government has received information from its legation at Bogota to the effect that on July 31 last a telegram read in the Colombian Congress caused a marked sensation by announcing that Jurado had been occupied by Panama.

In consequence of the foregoing I have instructions to make known with perfect clearness to your excellency that the United States Government, which is compelled by its responsibilities to interest itself in the foreign relations of Panama, can not but disapprove any steps to the detriment of matters which are placed sub judice by pending treaties.

In reply to the foregoing note the Government of Panama hastened to flatly deny the report circulated in the Colombian Senate and earnestly requested the Hon. Mr. Weitzel to kindly express to the State Department the sincere thanks of the Panama Government for the interest it took in Panama affairs.

The doctrine set forth by your excellency's Government in the note of the honorable chargé d'affaires of the United States in Panama clearly defines the present situation between the Government of Costa Rica and Panama, for since the American Government "considers itself compelled by its responsibilities to interest itself in the foreign relations of Panama and can but disapprove any steps to the detriment of matters placed sub judice by pending treaties," it can likewise not help disapproving the conduct of the Costa Rican Government when the latter persists in taking steps to the detriment of matters which are placed sub judice by virtue of pending negotiations.

In view of the foregoing, which I respectfully submit to your excellency's illustrious consideration, my Government deems itself warranted in asking your excellency's Government to express to whom it may concern its disapproval of the steps which the Costa Rican Government is taking at present.

As my Government confides in the principles of justice which animate the State Department, I have the honor and pleasure in advance to convey to your excellency the sincere thanks of the Panama Government for the just and benevolent intervention of your excellency's Government.

I avail, etc.,

C. C. AROSEMENA.

File No. 2491/77.

The Acting Secretary of State to the Minister of Panama.

No. 13.]

DEPARTMENT OF STATE,
Washington, October 11, 1909.

SIR: Referring to your note of August 31 last, I have the honor to say that that attitude of the United States towards the Panama-Costa Rica boundary controversy is expressed in this department's instructions of April 16, 1906,¹ and January 30, 1909,² to the legation of the United States at Panama, copies of which instructions were sent to your legation.

These instructions are based upon the fact that by agreement between Panama and Costa Rica the territory to the north of the Sixaola is regarded as subject to the de facto jurisdiction of Costa Rica until such time as the two nations shall have drawn a definite boundary. In view of these circumstances it does not seem necessary to make a further reply to the note of August 31, other than to invite attention to the often expressed opinion of this Government that Panama and Costa Rica should determine the boundary line in dispute either through diplomatic channels or by arbitration.

Accept, etc.,

HUNTINGTON WILSON.

The Costa Rican Minister to the Secretary of State.

[Translation.]

COSTA RICAN LEGATION,
Washington, October 14, 1909.

SIR: I have the honor to apprise you that my Government, after the lapse of five months since the Panaman Legation was accredited in San Jose without a settlement of the boundary dispute being as much as set on foot, being convinced that it will be impossible to attain any practical result on the case by means of direct negotiations, has decided to reopen negotiations with the Washington Government and again solicits its good offices in order to bring Panama to the field of arbitration, if it were impossible to reach any other solution, and with this end in view it has decided again to accredit to the said Washington Government Señor Don Luis Anderson in the capacity of envoy extraordinary and minister plenipotentiary on special mission.

Mr. Anderson will in due course call at the Department of State.

I beg, etc.,

J. B. CALVO.

File No. 2491/81.

*The Costa Rican Minister on Special Mission to the Secretary of State.*COSTA RICAN LEGATION,
Washington, October 16, 1909.

SIR: I have the honor to inform your excellency that, it having been, as yet, impossible to reach a solution of the boundary question

¹ See Foreign Relations, 1906, p. 1201.² Supra.

pending between the Republics of Costa Rica and Panama through direct negotiations, the Government of Costa Rica deemed it opportune to resort again to the good offices and friendly mediation generously offered by your excellency's Government and accepted by those of Costa Rica and Panama, to arrive at the so much desired settlement.

With this end in view, my Government has given me instructions to resume the special mission with which I am intrusted near the Government of your excellency.

My Government hopes that, through the good will and friendship which at all times the Government of this country has shown toward the Republics of Costa Rica and Panama, they will soon arrive at a satisfactory and fraternal adjustment of their only controversy.

I take advantage of this opportunity, etc.,

LUIS ANDERSON.

The Acting Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, October 18, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, and to avail of this opportunity to inform the Government of Costa Rica, through you, that this Government is now advised that the recent diplomatic negotiations between Costa Rica and Panama for the settlement of the pending boundary controversy between them have failed. I have the honor, therefore, to say that this Government desires in a spirit of utmost good will and friendship toward both Governments, to remind the Government of Costa Rica of the proffer of the good offices of this Government to bring about the arbitration of the question at issue and to recommend prompt recourse to arbitration.

The Government of the United States is also advised that the Government of Panama is willing to submit to the Chief Justice of the United States as sole arbitrator the final decision as to which of the two boundary lines between Panama and Costa Rica under the Loubet award is the correct one, on condition that the Government of Costa Rica enters into a formal agreement with the United States Government that the decision of the arbitrator, whatever it be, shall be accepted by Costa Rica as final. In view of this acceptance, subject to the stated condition on the part of the Government of Panama, there can be no doubt that that Government is prepared to enter into a similar agreement accepting the decision as final. I have the honor, therefore, to request consideration of this subject by your Government, and to be advised by you upon your return to this country and resumption of your special mission, or otherwise as soon as may be convenient, whether the Government of Costa Rica will also accept Mr. Chief Justice Fuller as sole arbitrator, and will enter into the agreement proposed to accept his decision as final.

Accept, sir, etc.,

ALVEY A. ADEE.

File No. 2491/79.

The Acting Secretary of State to the Costa Rican Minister on Special Mission.

No. 835.]

DEPARTMENT OF STATE,
Washington, October 18, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, in which you inform the department that your Government, being convinced that it will be impossible to obtain a satisfactory settlement of the boundary dispute between Costa Rica and Panama by means of direct negotiations, has decided to solicit again the good offices of the Government of the United States, in order to induce the Government of Panama to agree to the submission of the question to a tribunal of arbitration, if it should be impossible to reach any other solution; and that, with this end in view, your Government will again accredit Señor Don Luis Anderson as its envoy extraordinary and minister plenipotentiary on special mission to this country.

In reply I have the honor to say that it has given the department pleasure to see Señor Anderson.

Accept, etc.,

HUNTINGTON WILSON.

File No. 2491/83.

*The Costa Rican Minister on Special Mission to the Secretary of State.*COSTA RICAN LEGATION,
Washington, October 18, 1909.

EXCELLENCY: I have the honor to acknowledge the receipt of your kind communication of this date, wherein, referring to the pending negotiations for the satisfactory settlement of the boundary dispute between the Republics of Costa Rica and Panama, your excellency has been pleased to reiterate the proffer of the good offices of your Government to bring about the arbitration which is to put an end to the controversy, your excellency at the same time informing me that your Government is also advised that the Government of Panama is willing to submit to the Chief Justice of the United States, as sole arbitrator, the final decision as to which of the two boundary lines between Costa Rica and Panama under the Loubet award is the correct one, on condition that the Government of Costa Rica enters into a formal agreement with the United States Government that the decision of the arbitrator, whatever it be, shall be accepted by Costa Rica as final.

The Government of Costa Rica being desirous, as it in fact is, of reaching, as soon as possible, the definite solution of this, its only controversy of an international character, welcomes with real satisfaction this attitude of the Republic of Panama. Therefore it gives me much pleasure to say to your excellency that my Government is entirely disposed forthwith to enter into a convention of arbitration, whereby Costa Rica as well as Panama should submit to the arbitration of the Chief Justice of the United States, as sole arbitrator:

First. Which of the two interpretations given by the interested parties to the Loubet award should prevail as the correct one according to law.

Second. Whether the Loubet award, understood in the way Colombia, now Panama, interprets it, would or would not be obligatory.

The arbitral award of the Chief Justice of the United States must, in the very nature of things, be considered as final and binding by both countries.

The Government of Costa Rica stands ready to sign a treaty in the sense I have above outlined, and it would be a great gratification to have the United States join as a party to said treaty.

In communicating the foregoing to your excellency I cherish the hope that this old question that has for such a long time separated Costa Rica and Panama will be promptly and forever settled through your timely and happy intervention; and it gives me pleasure to acknowledge on the part of my Government its profound gratitude toward that of the United States for the valued service it is rendering in this important matter.

Accept, etc.,

LUIS ANDERSON.

File No. 2491/83.

The Acting Secretary of State to the Minister of Panama.

DEPARTMENT OF STATE,
Washington, October 20, 1909.

SIR: I have the honor now to reply to your note of July 30, in which you submit for my consideration an accompanying memorandum regarding boundaries between the Republics of Panama and Costa Rica with the object of terminating the existing controversy between the two Republics. Regretting the delay which has occurred in the consideration of the memorandum by the department, and in making due reply to your note, I desire to express my great satisfaction at the cordial attitude of Panama in accepting the good offices of this Government and in submitting to the Chief Justice of the United States, as sole arbitrator, the final decision of the question as to which of the two boundary lines between Panama and Costa Rica is the correct one.

I have informed the special minister of Costa Rica at this capital of the readiness of Panama to submit this question to arbitration, provided that Costa Rica formally agrees with the United States Government that the decision, whatever it be, shall be accepted by her as final, to which condition I thus necessarily understand that Panama on her part will also agree.

Mr. Anderson is about to sail for Costa Rica for a temporary absence, intending to return early in November, having engaged to sail from Boston on Thursday next, but is prepared to return to Washington at once, fully empowered, I understand, to carry out the cordial willingness which he also expresses on behalf of his Government to submit to the arbitration of Mr. Chief Justice Fuller by entering into the necessary agreements with the Government of Panama and with this Government.

If, then, you are empowered on behalf of the Government of Panama to complete and execute the necessary agreements at this time, I will so advise Mr. Anderson by telegraph to-day, and the matter may doubtless then proceed to this fortunate and happy conclusion within the next two days. If, however, it is the case that your present powers do not embrace full power to act in this

matter, I shall await due advices from you as to when the negotiation may proceed to this final result, and venture to express the hope and the confidence that the formal and final attitude of Panama now will merely carry out her promptness and readiness heretofore.

I take this opportunity, sir, to express my admiration of the unequivocal proof which the Republic of Panama has furnished in this negotiation, of the spirit of justice which animates it, and of the respect which it has for the equitable principle of arbitration.

Accept, etc.,

HUNTINGTON WILSON.

File No. 2491/87.

The Minister of Panama to the Secretary of State.

[Translation.]

No. 29.]

LEGATION OF PANAMA,
Washington, October 23, 1909.

EXCELLENCY: In reply to your excellency's polite note of the 20th instant, relative to the controversy over the boundary line between the Republics of Panama and Costa Rica, I have the honor, on behalf of my Government, to offer, through you excellency's worthy medium, the expression of the Panaman Government's thanks to the Government of the United States for the fresh evidence of friendship it has extended to the Government of Panama in consenting to let the learned and eminent Chief Justice of the Supreme Court of the United States act as arbitrator in the boundary dispute pending between the two Republics.

It affords my Government pleasure to find this very long-standing question in so promising a condition for final settlement, and it appreciates and values beyond expression the good offices of your excellency's Government, confident as ever that it may rely on its wise counsel in case of an unlikely disagreement with the Government of Costa Rica respecting the points to be referred to the learned arbitrator.

As the legation's duties in the negotiations that have been carried on between the Governments of Panama and Costa Rica have been confined to transmitting communications, I am without instructions empowering me to conduct direct negotiations with Mr. Luis Anderson, as stated in my telegram of the 21st instant to your excellency; but I have taken the requisite steps to apprise my Government of all that has taken place in the matter and I expect soon to receive instructions on this point.

I note in your excellency's communication to which I have the honor to refer that your excellency speaks in a general way of the boundary lines, and in order to remove all doubt as to what my Government proposes to refer to arbitration, I have the honor to advert to the closing paragraph of Secretary Lewis's memorandum, which I respectfully submitted to your excellency's consideration, together with my note No. 17 of July 30 last, and which runs as follows:

Panama proposes to ask of Costa Rica compliance with the Loubet award, and as the only point upon which disagreement may arise concerning the demarkation of the line therein indicated is that portion of the line which embraces the valley of the Tarire River, this Government is disposed to refer to the honorable Chief Justice of the

Supreme Court of the United States the final decision as to which of the two boundary lines between Panama and Costa Rica is the correct one, in the event of the Loubet award having overstepped the extreme line of Colombia; whether that which was fixed by Colombia with the award before her, and which embraces the valleys of the tributaries of the Sixaola, above the Yorquin, or whether the boundary is a line which, starting from Cape Mona on the Atlantic Ocean, follows the spur of the range beginning at the said cape, until it meets the line which, according to the arbitration conventions constitute the extreme claim of Colombia, which then follows that extreme line until it cuts the award line on the range which divides the waters between the Atlantic and Pacific, then following the said range as far as the ninth degree of latitude, approximately, provided that Costa Rica enter into a formal engagement with the United States that that award, whatever it may be, shall be accepted by her as final.

I have the honor to join in my Government's expression of thanks for your excellency's considerate note of the 20th instant, and take pleasure in subscribing myself, etc.,

C. C. AROSEMENA.

File No. 2491/87.

The Secretary of State to the Minister of Panama.

No. 14.]

DEPARTMENT OF STATE,
Washington, November 2, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 20th ultimo,¹ relative to the suggested submission to Chief Justice Fuller, as arbitrator, of the boundary controversy between your Government and that of Costa Rica.

The purpose of this Government has been to bring the Governments of Costa Rica and Panama together in the path of arbitration, and as this appears to be hopefully in the way to be accomplished, through direct negotiations of the empowered representatives of the two Governments, it does not appear necessary for this Government to take any part in the formulation of the terms of submission of the question to the arbitrator.

This Government has assumed that the two parties were in discord as to a part of the Loubet award, and that all that is wanted is for each to submit its interpretation as to that part of the line in disagreement and invite the arbitrator to determine which of those two interpretations is the correct one under the Loubet award. In this assumption, we limit ourselves to taking note of that portion of your communication which appears to define the contention of Panama in this regard.

As to the finality and binding character of the award, whichever it may be, this Government can not doubt the good faith of the parties to the arbitration, and while not asking for a formal engagement on the part of either or both, would have pleasure in receiving assurance from Panama as well as Costa Rica that the award shall be accepted as final.

Accept, etc.,

P. C. KNOX.

¹ Not printed.

Chargé Weitzel to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Panama, December 2, 1909.

Mr. Weitzel refers to department's November 30,¹ and says he is informed by secretary of state for foreign affairs that his Government has prepared full powers giving authority to minister to sign arbitration agreement as suggested in department's note of October 20, but not as proposed in note of November 2. Says former is interpreted to be acceptance of terms of minister's memorandum of July 10, limiting arbitration to two lines, neither of which is Anderson line.

File No. 2491/96.

Chargé Weitzel to the Secretary of State.

No. 599.]

AMERICAN LEGATION,
Panama, December 2, 1909.

SIR: I have the honor to report to the department, with reference to telegraphic instruction of November 30, the result of my informal inquiry as to whether the Government of Panama is now prepared to instruct its minister at Washington in the matter of the boundary controversy with Costa Rica.

The secretary for foreign affairs informs me that in accordance with the suggestion made by way of inquiry in department's note, dated October 20, addressed to Minister Arosemena, he, the secretary, has already prepared the necessary full powers authorizing the Panama minister to sign the proposed agreement of arbitration, said powers being drawn in blank to await the pleasure of the President of Panama as to the propriety of appointing a special envoy, just as Costa Rica has done in the case of Dr. Luis Anderson.

But his excellency further informs me that he considers the department's note, dated November 2, addressed to Minister Arosemena, to contain a material variation from the terms of the note dated October 20 in this, to wit, that the note of October 20 accepts the proposals of the memorandum dated July 10, 1909 (inclosed in the Arosemena note of July 30), which provides for the submission to arbitration of the question which of the two lines described in said memorandum should be adopted as the proper interpretation of the Loubet award, whereas the note of November 2 provides for the submission of the question which of two other lines, the one contended for by Dr. Anderson or the one contended for by Panama, is the proper interpretation of the said award.

In other words, the memorandum of July 10 limits the arbitration to two lines, neither of which is that contended for by Dr. Anderson.

The note of November 2 is said to contain a further variance, in that it disavows any intention on the part of the United States to guarantee that the arbitration decree when rendered will be acquiesced in by the parties signatory, whereas the note of October 20, so he says, contains a very strong intimation of such guaranty.

¹ Not printed.

And, finally, the Secretary stated to me that he would forward by this mail, if possible, the powers above mentioned to his minister at Washington, and at the same time embody his views, outlined above, in his instructions to Minister Arosemena as a reply to the latter's dispatch inclosing the department note of November 2.

Before this can be done the whole matter must be referred to the President for approval, and some delay may ensue if there be any difference of opinion between them.

I have, etc.,

GEORGE T. WEITZEL.

The Secretary of State to the Minister of Panama.¹

DEPARTMENT OF STATE,
Washington, December 4, 1909.

MY DEAR MR. MINISTER: Referring to the boundary controversy between the Republics of Costa Rica and Panama, and to the recent correspondence on that subject, I beg to suggest, in pursuance of the earnest disposition of this Government to facilitate and expedite by its friendly offices the settlement of that question, that a conference should be held at this department on January 15 next, or soon thereafter between yourself and the minister of Panama and myself. At such conference it would be in order to consider and discuss the existing situation fully, to reach, if possible, the basis of a protocol agreement formulating the questions at issue, and to take the other steps necessary for the submission of the controversy to Chief Justice Fuller as sole arbitrator, in accordance with the proposal heretofore made and thereupon approved by the Governments of Costa Rica and Panama.

Permit me to express my confident hope that this important matter may thus be carried promptly to the definitive settlement which is so desirable.

I am, etc.,

P. C. KNOX.

File No. 2491/95.]

The Minister of Panama to the Secretary of State.

[Translation.]

No. 36.]

PANAMAN LEGATION,
Washington, December 6, 1909.

MY DEAR MR. SECRETARY: It affords me pleasure to acknowledge receipt of your nice long letter of the 4th instant, in which you are so good as to suggest the advisability of an interview at the Department of State on the 15th of January next, or thereabouts, between you, the minister of Costa Rica on special mission, and myself for the laudable purpose of conferring about the boundary dispute between the Republics of Costa Rica and Panama, in order to arrive at an early and satisfactory settlement of that long-standing question and discuss the bases of a protocol containing the points which the said Republics wish to refer to the learned arbitrator for his final award.

¹ Same: *Mutatis mutandis* to the Costa Rica minister.

As I said in the note which I had the honor to send to the Department of State under No. 29, on the 29th of October last, this office is without instructions from our department of foreign relations to deal with the question referred to in your note, and, although I would be most glad to meet your wishes, I realize how little satisfaction you and the minister of Costa Rica would derive from the discussion of a matter upon which I should, of necessity, maintain unbroken silence.

I have, however, hastened to acquaint my Government with the contents of your letter and trust that the conference you were so good as to propose may be held even at the time mentioned in your note.

I once more take the liberty of expressing to you the sentiments of the Panaman Government's profound gratitude for the marked interest with which the Government of the United States and the department you so worthily represent have viewed the question and the pleasure with which my Government receives it and is ready to accept your wise advice for a prompt and satisfactory settlement of the matter.

Accept, etc.,

C. C. AROSEMENA.

File No. 2491/94.]

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, December 6, 1909.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's attentive communication of the 4th instant, wherein, referring to the boundary controversy between the Republics of Costa Rica and Panama, your excellency deigns to suggest, in pursuance of the earnest disposition your excellency's Government has been pleased to show to both Costa Rica and Panama to facilitate and expedite by its friendly offices the settlement of that question, that a conference should be held at the Department of State on January 15 next, or soon thereafter, between your excellency and the minister of Panama and myself, in order to consider and discuss the situation fully, to reach the basis of a protocol agreement formulating the question at issue, and to take the other steps necessary for the submission of the controversy to Chief Justice Fuller, as sole arbitrator in accordance with the proposal made by the Government of the United States and accepted by those of Costa Rica and Panama.

I consider the suggestion of your excellency the most timely and expeditious means for reaching immediately a satisfactory settlement. The discussion that is to be held between the representatives of Costa Rica and Panama, through the just mediation of your excellency, will elucidate at once all the points that should be considered in framing the convention of arbitration which, necessarily, shall put an end to the old boundry dispute. It is to be supposed that the minister of Panama will attend the meeting sufficiently instructed and empowered, and I have no doubt that we will easily arrive at a gratifying solution.

Consequently, my Government, which deeply appreciates the good will and friendly disposition with which the Government of the United States has extended its mediation and good offices for the adjustment of the boundary question, accepts with pleasure the suggestion of your excellency to the effect that, on the 15th of January, or thereafter, a conference for the purpose indicated be held between your excellency and the minister of Panama and myself, and it does not doubt that the Government of Panama will also welcome so wise a proposition.

I deem it opportune on this occasion to remind your excellency of the firm disposition of my Government that the proposed agreement of arbitration be ample and include all questions in dispute and not limited to any one or more of them. I will be greatly obliged if your excellency would be pleased to signify this to the Government of Panama.

I beg your excellency to accept, etc.,

LUIS ANDERSON.

File No. 2491/92.

The Acting Secretary of State to Chargé Weitzel.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 7, 1909.

Mr. Wilson acknowledges the legation's telegram of December 2, and instructs Mr. Weitzel, to inform the secretary of state for foreign affairs that it was not the intention of the department in either of its notes referred to to accept or suggest any particular conditions of arbitration concerning the scope or form of the question to be submitted, but, because of the sincere friendship of the United States equally for Panama and Costa Rica, both notes were confined to favoring prompt submission to the authoritative and final decision of the sole arbitrator, of the respective contentions as to the boundary line, upon a formulation of the question at issue by a protocol to be agreed upon between the respective plenipotentiaries of those powers

File No. 2491/95.

The Secretary of State to the Minister of Panama.

No. 16.]

DEPARTMENT OF STATE,
Washington, December 16, 1909.

SIR: I have the honor to acknowledge the receipt of your note No. 36, of the 6th instant, in which you state that, as the department was informed in your note of October 29 last, you have no instructions from your Government to deal with the question of the boundary dispute between Panama and Costa Rica, but that you have informed your Government of the department's suggestion that yourself and the minister of Costa Rica on special mission visit the Department of State on the 15th proximo, or soon thereafter, in order to discuss the question with the Secretary of State.

You express the hope that the conference may take place, and again express your Government's gratitude for the interest taken by the department in the controversy.

In a note, dated the 6th instant, Mr. Anderson, the minister of Costa Rica on special mission, informs the department that he is prepared to take part in the proposed conference.

The department thanks you for the information contained in your note, and awaits the receipt from you of a note, which, it is earnestly hoped, will advise the department that you have been empowered to sign an agreement for arbitration so ample as to include all the questions in dispute as to the boundary, and not limited to any one or more of them.

Accept, etc.,

(For Mr. Knox.)

HUNTINGTON WILSON.

File No. 2491/95.

The Secretary of State to the Costa Rican Minister on Special Mission.

No. 93.]

DEPARTMENT OF STATE,
Washington, December 16, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, in which you inform the department that your Government accepts with pleasure the suggestion made in the department's note of the 4th instant, that yourself and the minister of Panama visit the department on the 15th proximo, or soon thereafter, to consider and discuss with the Secretary of State the question of the boundary dispute between Costa Rica and Panama.

In a note, dated the 6th instant, the minister of Panama informs the department that he has no instructions from his Government to deal with the question of the boundary dispute; but that he has informed his Government of the department's suggestion.

The department has addressed a note this day to the minister of Panama, telling him that you are prepared to take part in the conference and informing him that the department awaits the receipt from him of a note, which, it is confidently hoped, will advise the department that he has been empowered to sign an agreement for arbitration so ample as to include all the questions in dispute as to the boundary, and not limited to any one or more of them.

Accept,

(For Mr. Knox.)

HUNTINGTON WILSON.

File No. 2491/96.

The Acting Secretary of State to Chargé Weitzel.

No. 228.]

DEPARTMENT OF STATE,
Washington, December 18, 1909.

SIR: The department is in receipt of your dispatch, No. 599, of the 2d instant, in which you report in answer to the department's telegram of the 30th ultimo, the result of your informal inquiry as to whether the Government of Panama is now prepared to instruct its minister at Washington in the matter of the boundary controversy with Costa Rica. You say: [Quotes paragraphs 2 to 6 of Minister Weitzel's dispatch]. You will inform the Government of Panama that this Government has not, by any of its communications, undertaken to define or limit the boundary question or questions arising under the Loubet award which are to be submitted to arbitration, but that the

defining of the question or questions is a matter for agreement solely between the plenipotentiaries of Panama and Costa Rica; and that this Government does not undertake to guarantee acceptance of the arbitrator's award as conclusive or binding, which also is a matter for both Panama and Costa Rica to agree to, in their protocol of submission.

In a note, dated the 4th instant, the department suggested to Mr. Arosemena, the Panamanian minister, that a conference be held at the department on January 15, 1910, or soon after, between him and Mr. Anderson, the minister of Costa Rica on special mission, and the Secretary of State, to consider and discuss the existing situation fully, to reach, if possible, the basis of a protocol agreement formulating the question at issue, and to take the other steps necessary for the submission of the controversy to Chief Justice Fuller as arbitrator.

The same suggestion was made to Mr. Anderson, who promptly accepted the proposal and expressed his readiness to take part in the conference.

Mr. Arosemena answered that he had no instructions from his Government to deal with the boundary question, but that he had informed his Government of the department's proposal, and he expressed the hope that the conference would take place.

In its note, in reply, of the 16th instant, the department informed Mr. Arosemena of Mr. Anderson's acceptance, and said that it awaited the receipt from him of a note which, it is earnestly hoped, will advise the department that he has been empowered to sign an agreement for arbitration so ample as to include all the questions in dispute.

I am, etc.,

ALVEY A. ADEE.

File No. 2491/110.

*The Secretary of State to the Minister of Panama on Special Mission.*¹

DEPARTMENT OF STATE,
Washington, February 2, 1910.

SIR: I have the honor to inform you that, for several reasons, the Department of State deemed it advisable not to delay further the sending of a telegram to our legation at Panama in reference to the proposed boundary arbitration of your country with Costa Rica. Accordingly, the department telegraphed yesterday, February 1,² instructing our chargé d'affaires at Panama to call the attention of the Government of Panama to the fact that the department's telegram to him of December 7 and its instruction of December 18 made it clear that there was no intention to limit the boundary issue between Panama and Costa Rica to the mere interpretation of the Loubet award; that the United States Government thinks, and has said, and now repeats that the crucial matter to be submitted to arbitration is the respective contentions of the two Republics as to the true boundary line; that by the foregoing statement of the real issue this Government merely indicates its friendly opinion and disclaims any desire to influence the free agreement of the two Republics of the course of the proposed arbitration; that the responsibility for the arbitration and for the success or failure of the pending

¹ Same to Costa Rican minister on special mission.

² Not printed. Telegram same as note.

negotiations must rest with the two Republics. But that this Government nevertheless deems it proper to say that in view of all the facts it has felt some degree of surprise upon learning the tenor of the powers of the special minister of Panama, which are not full powers as designated in certain passages thereof but powers restricted to the negotiation of a protocol founded upon the strict acceptance first and above all by both contracting parties of the Loubet award, and further hampered, it seems, by special instructions which limit his freedom and independence of action; that this Government respectfully but earnestly represents that such are not full powers, are not adequate to the task in hand, and are not equivalent to the unrestricted powers of the special minister of Costa Rica, and therefore should be amplified by telegraph to secure progress in the negotiations. That this Government further feels that its own attitude, assumed before the special minister of Panama was accredited, shows that it believed full powers were needed and were confidently awaited in order to settle the real and broad question as to the true permanent boundary, and that the unavailing negotiations with Costa Rica for nearly 10 years last past had made it clear beyond peradventure that this long-standing controversy can not be settled by insisting on a mere interpretation of the Loubet award; that during the said period Costa Rica has insisted that the Loubet award was void in part at least on the ground of ultra petita or impaired or vitiated by ambiguity and uncertainty, and that this contention was not in violation of the original agreement of submission which contemplated an award within the defined limit of the claims and not technically void for uncertainty; that this Government represents further, and suggests that, considering these facts, the terminal points of the Loubet award should now be finally agreed to as accepted by both parties—namely, Punta Burico and Punta Mona—and that the boundary drawn from one to the other should be submitted and determined without restriction in the light of the Loubet award as well as in the light of all the allegations, contentions, evidence, and arguments submitted by both parties; that admitting, as all must do, a moral obligation flowing from the Loubet award, the question submitted by this Government to the Panaman Government is whether, considering the long practical deadlock of this controversy and the past unyielding attitude of both Governments, it is not now most important and indeed necessary to dwell upon and emphasize the moral and practical importance of peace and good neighborhood and the amicable settlement of a historic controversy which has been and this Government feels will evidently continue to be rendered impossible in case the acceptance of the Loubet award be insisted upon; that, finally, this Government feels itself entitled to urge the importance of a prompt, practical, and final settlement of the matter by reason of the large property interests of its citizens located in the disputed territory, which are unfavorably affected by the ambiguous and unsettled status of the boundary question, and by reason of its guaranty under the treaty of 1903 with Panama of the independence of that Republic, which gives it the right to know as speedily and definitely as may be the true boundaries and the exact extent of the territory the independence of which it has guaranteed.

Accept, etc.,

P. C. KNOX.

File No. 2491/120.

Chargé Weitzel to the Secretary of State.

No. 626.]

AMERICAN LEGATION,
Panama, February 6, 1910.

SIR: I have the honor to refer to department's telegraphic instruction of the 1st instant relative to the pending negotiations at Washington between the special ministers of Panama and Costa Rica in the matter of the boundary controversy, and I beg to forward inclosure No. 1, copy of my note transmitting the contents of said telegram to the foreign office, and inclosure No. 2, copy and translation of the reply, the substance of which was communicated to the department in my cable of even date herewith.¹

I have, etc.,

GEORGE T. WEITZEL.

[Inclosure 1.]

Chargé Weitzel to the Minister for Foreign Affairs.

No. 262.]

AMERICAN LEGATION,
Panama, February 8, 1910.

YOUR EXCELLENCY: I have the honor to advise your excellency of the receipt of a telegraphic instruction from my Government, dated the 1st instant, which I brought informally last evening to the attention of your excellency, yesterday being a holiday and the foreign office closed, and of which I beg to be permitted to deliver a copy.

It refers to the negotiations now pending in Washington between the special ministers of Panama and Costa Rica, respectively, relative to the boundary controversy between those two Republics.

I avail, etc.,

GEORGE T. WEITZEL.

[Inclosure 2—Translation.]

The Minister for Foreign Affairs to Chargé Weitzel.

No. 570.]

FOREIGN OFFICE,
Panama, February 5, 1910.

HONORABLE SIR: I have the honor to acknowledge the receipt of your esteemed note No. 262, dated yesterday, inclosing a copy of the cable instructions of your Government relative to the negotiations in Washington, between the special ministers of Panama and Costa Rica, in reference to the boundary controversy pending between the two Republics.

My Government is thankful for the declaration contained therein, that the Government of the United States will confine itself to expressing a friendly opinion in the matter, and emphatically denies any desire to exercise influence on the free opinion of the two Republics or the course of the proposed arbitration, and that the responsibility for the success or failure of the pending negotiations must rest solely with the two Republics interested in the controversy.

Nevertheless, in its capacity as a friendly intervenor, the Government of the United States deems it proper to say, that in view of all the facts, it has felt some degree of surprise upon learning the tenor of the powers of the special minister of Panama, which are not full powers, and designated in certain passages thereof, but powers restricted to the negotiation of a protocol founded upon the strict acceptance, first and above all by both contracting parties of the Loubet award, and further hampered it seems by special instructions which limit his freedom and independence of action.

I hasten to inform you, so that you may communicate it to the Department of State, in reply to the cable instructions, which were the cause of your note above referred to, that the Government of the Republic of Panama has invested its special envoy, Dr. Belisario Porras, charged with adjusting in Washington the long standing boundary controversy between this Republic and Costa Rica, with the most ample powers that it is possible for the Executive to give, taking into account the constitution and the

¹ Not printed.

national laws, the respect which the definitive award of an arbitration ought to command, in every civil country, and the permanent interests of the nation. In fact, article 3 of the constitution of Panama determines the territory of the nation in the following manner:

The territory of the Republic is composed of all that territory with which the State of Panama was created by an additional act of the Granadian constitution of 1853, on the 27th of February, 1855, transformed in 1886 into the Department of Panama, with its islands and the continental and insular territory awarded to the Republic of Colombia by virtue of the decision delivered by the President of the French Republic on the 11th of September, 1900. The territory of the Republic stands subject to the jurisdictional limitations stipulated or which may be stipulated in the public treaties celebrated with the United States for the construction, maintenance, and sanitation of whatsoever means of interoceanic communication. The boundaries with the Republic of Colombia will be determined by public treaties.

Said determination implies the respect and consideration which is due to the young Republic by the equitable and civilized principle of arbitration, and, furthermore, it agrees exactly with the facts and circumstances since the 11th of September, the date on which President Loubet rendered in Rambouillet his award of arbitration in the dispute pending between the two Republics, and on the 13th of February, 1904, the date on which the Panaman constitution was signed, because between Colombia and Costa Rica the Loubet award had solely been under discussion as to the precise manner in which it should be interpreted. It so appears in the note of the 20th of September, 1900, directed to His Excellency Señor Delcasse, minister for foreign affairs of the French Republic, by His Excellency Señor Manuel M. de Peralta, minister of Costa Rica in Paris, and in subsequent communications and documents.

The attitude assumed by the Republic of Panama upon adopting its constitution, was on this point entirely correct, and the time when Señor Delcasse in the first paragraph of his reply of the 23d of November, 1900, to the note of Señor Minister Peralta, above cited, said:

But it is not doubtful, as you have observed, that in conformity with the terms of articles 2 and 3 of the convention of Paris, of the 20th of January, 1886, this frontier line should be drawn within the territory in dispute, as appears from the text of said articles—

a declaration which sustains forever and in a definite manner the referred to award against all pretext of nullity, and refutes the argument of ultra petita, set forth by Costa Rica.

Since the establishment of the Republic of Panama the award has been discussed by the parties, only in regard to its interpretation, but never respecting its validity or obligatory force. This was confirmed in the messages of the different Presidents of Costa Rica to the Congress of said nation, and in the articles of agreement proposed by Panama; in the form of a treaty, as taken from the Guardia-Pacheco; and in the preliminaries of arbitration contemplated, as will be seen by the note in which this Government accepted the good offices of the United States and wherein in an express manner she declined to submit the point to a new decision, but simply agreed to refer to the illustrious decision of the Chief Justice of the Supreme Court of the United States whatever and all points of disagreement in fixing the dividing line between the two countries, in accordance with the Loubet award, and finally, as appears to be desired by the Department of State, as will be seen from the note of instructions which the honorable Elihu Root sent to the honorable Charles E. Magoon, by note No. 37, of the 16th of April, 1906, and officially communicated to Secretary Arango on the 21st of December, 1908, by Minister H. G. Squiers, the fourth paragraph of which is literally as follows:

The first of these is that the Loubet decision of 1908, accepted as final by both Colombia and Costa Rica, the territory included in the McConnel plantation was awarded to "Colombia" (now Panama) and became subject to the jurisdiction of that country.

And further states in the following paragraph:

At the same time it is undeniable that the de jure sovereignty has been in Colombia and Panama since the Loubet award, accepted as it is by Panama and Costa Rica, so that either by virtue of that award, or of the pending boundary treaty, the territory will ultimately come under the jurisdiction of Panama.

And finally in the following paragraph of the above-mentioned instructions with this declaration:

In the department's conception of this matter, Costa Rica exercises at present a temporary de facto sovereignty over the territory included in the McConnel concession, subject of right to be diverted at any time as the pending boundary treaty is ratified. She exercises the powers of Government that are necessary for the orderly administration of the district, but could not use this sovereignty in such a way as to impair the rights of the de jure sovereignty of the territory. Her functions of government are limited by her tenure, which is of a temporary and precarious character. Her duty is to preserve the property, not to destroy it, and hand it over to her successor without the commission of any acts tending to impair the ultimate rights of the de jure owner.

The foregoing observations fully prove that the Loubet award has been recognized as a final settlement of the controversy of limits between Panama and Costa Rica, not only by the parties, but also by the friendly intervenor.

The Republic of Panama proceeded, therefore, as a basis to fix, as it did fix in the constitution, the limits with Costa Rica in conformity with the Loubet award, subject only to the interpretation to be given to said award, but Panama being convinced that these limits could never again be the subject of a new treaty, as was foreseen in the case of limits with Colombia, in paragraph of article 3 of the constitution above cited.

As a consequence the spirit and the letter of the constitution permit the Panama executive power to solve the difference existing over limits with Costa Rica, basing it always on an interpretation of the award, but in no case is authorized to enter into a public treaty in which this award will be discussed as to its validity. This would imply a flagrant violation, and in this case unjustifiable of the constitution. A violation much more evident, as the constitutional precept has received an important corroboration in Law 6° of 1907, by which the Guardia-Pacheco treaty was approved. This law in article 2 sets forth:

The Chief Executive is authorized, so that if the Republic of Costa Rica does not approve said treaty during the approximate sessions of her Legislature, this law may be suspended and the Loubet award carried into effect.

Thus, then, in the most courteous manner, and having weighed with all attention the observations made by the Department of State, I permit myself with all seriousness that the case requires, to inform you that the powers, without more limitation, without other restriction than the prior recognition of the Loubet award by both parties, granted to the special envoy, Dr. Porras, are the most ample which the Panama executive power can extend.

However, I ought to make known to you that the Government of Panama in its vehement and sincere desire to put an end to the boundary controversy with Costa Rica, as long standing as it is vexatious, is disposed to amplify these powers, if they are not sufficiently ample, and in such form as may be possible to arrive at an understanding, proper and satisfactory to both parties, having always as a prior and unalterable basis the recognition of the Loubet award; the sole circumstance which will make such a solution adjustable to our fundamental charter.

I avail, etc.

L. LEWIS.

File No. 2491/123.

The Minister of Panama on Special Mission to the Secretary of State.

PANAMA LEGATION,
Washington, February 20, 1910.

YOUR EXCELLENCY: Referring to the various conferences which I have had with your excellency and with the special minister of Costa Rica concerning the proposed arbitration of the differences between the two countries respecting the boundary between them, under the friendly auspices of your excellency's Government, I regret that any disagreement should have arisen between Panama and Costa Rica.

As I have already informed your excellency, my Government is constitutionally unable, even were it disposed, to consent to the annulment of the Loubet award and the resubmission of the whole question to a new arbitrator. Such a course would, moreover, be productive of no practical result, since the conditions which compelled President Loubet to describe the boundary in terms so general as to have given rise to the differences which followed it would make it equally impossible for any other arbitrator to be more precise and definite.

The result of a second arbitration of the whole question, were it possible, must necessarily be to give rise to new discussions of exactly the same character as those which have arisen under the Loubet award and differing from them only in the name of the arbitrator whose award is discussed.

In order that it should be possible to ascertain definitely the boundary line, there must be a survey and examination of the line and the territory through which it runs, made authoritatively by engineers commissioned for that purpose, the result of whose labors will leave no room for doubt as to the topography of the country or the true course of the boundary line.

Such a commission of delimitation, fixing and marking the boundary as they proceeded, and thus every possible question arising upon the subject would be finally, authoritatively, and conclusively determined at one and the same time.

With a view to this end, and with the sincere desire of reaching an amicable settlement of the subject, and of showing by every means in its power its warm appreciation of the mediation of your excellency's Government, my Government has authorized me to propose the following method of procedure:

A commission shall be appointed of four engineers, one to be named by the President of the Republic of Panama, one by the President of the Republic of Costa Rica, and the other two by the President of the United States. The latter two shall be citizens and residents of the United States, civil engineers in private practice, and in every respect independent and impartial and without personal interest as respects either of the Republics of Panama or Costa Rica or any other in either of said countries.

These four engineers shall proceed, by actual survey upon the ground, to lay out and mark the boundary line between the two Republics in accordance with the Loubet Award, and bearing in mind the limitation of that award, expressed in the letter of M. Delcasse to Señor Peralta, minister of Costa Rica at Paris, of November 23, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the convention of Paris between the Republic of Colombia and the Republic of Costa Rica of January 20, 1886.

Should the commission be unable to agree upon the true location of any portion of said line, or should either the Republic of Panama or the Republic of Costa Rica be dissatisfied with the decision of said commission with respect to the location of any part of said line, the questions thus arising shall be submitted to the Chief Justice of the Supreme Court of the United States, who shall decide, as final arbitrator, the true location of such part of said line under and in accordance with terms of the Loubet Award. In any case of such inability of the commission of engineers to fix any part of said line, or dissatisfaction of either of the Republics with any part of the line as located by said commission, the commission shall prepare a full and accurate map from their own original independent surveys of the entire region through which that portion of said line in question runs, which shall be submitted to said arbitrator, with their report and the questions arisen thereon, for his decision, and in every such case, the line as finally fixed by said arbitrator shall be deemed the true line, and his determination of the same shall be final, conclusive and without appeal, and the commission should proceed to make the line in accordance therewith.

The expenses of such arbitration shall be borne by the two Republics equally.

Your excellency will observe that an acceptance of this proposition by the Republic of Costa Rica will lead to a speedy and absolute termination of all differences between the two Republics concerning the boundary between them. It will make impossible any further question as to the location of that line, and, if the commission be authorized to mark the line as so determined by suitable monuments, will obviate even the necessity of a new commission of delimitation.

The proposition, in fact, differs from the proposition made by Señor Pacheco, then secretary of foreign affairs of Costa Rica, by his letter of July 27, 1901, to Señor Marroquin, then minister of Colombia to Costa Rica, only in that Señor Pacheco proposed that an interpretation of the award should precede the delimitation, while under this proposal the delimitation and arbitration proceed together and the arbitration will be based upon an accurate knowledge of the geographical facts involved, which knowledge is essential to an accurate judgment by the arbitrator of the points which may arise.

It is obvious that in the absence of this definite information no arbitrator could decide any such points. The same difficulty which made it impossible for President Loubet to define the line so exactly as to avoid dispute would make it equally impossible for the new arbitrator to do so. But by the proceeding suggested, the new arbitrator will have before him all the data which can be required, and will be able to interpret the award of President Loubet with full knowledge of the actual situation.

It is, therefore, the logical, reasonable, and proper course that the survey of the line and the country through which it runs should precede the arbitration, and this modification of the former proposal of Costa Rica involve no essential change, but only a useful and necessary modification of the procedure by which the results contemplated by that proposal shall be attained.

My Government is confident that in this way the amicable settlement of all differences between the Republics of Panama and Costa Rica, which it is no less desirous than is your excellency's Government to attain, may be reached in an equitable, reasonable, and honorable way, and it trusts that its proposition may meet with approval of your excellency's Government and with that of Costa Rica.

Accept, etc.,

BELISARIO PORRAS.

File No. 2491/123.

Identic memorandum handed to Señor Don Luis Anderson, Envoy Extraordinary and Minister Plenipotentiary of Costa Rica on Special Mission, and Dr. Belisario Porras, Envoy Extraordinary and Minister Plenipotentiary of Panama on Special Mission, at the conference held at the Department of State on March 1, 1910, at 3 p. m.

The Secretary of State has given the most studious attention to the respective attitudes of the Governments of Costa Rica and of Panama as revealed by a long correspondence and as finally crystallized in the specific proposals, received respectively on February 2¹ and February 25,¹ supplemented by the very important statements made orally at the conferences of the 25th and 26th ultimo.

¹ Proposals referred to were draft of a protocol [not printed] suggested by the Special Minister of Costa Rica delivered at the Department of State on Feb. 2, and the note of Feb. 20 from the special minister of Panama delivered at a conference held on Feb. 25.

The Secretary of State is well aware of the desires of Costa Rica that the proposed arbitration shall be as broad as possible. He is equally sensible of the considerations which impel the Government of Panama to insist upon the Loubet Award as a basis for the definitive determination of the boundary. It was a source of great satisfaction to take note of the fact that both parties are in practical agreement as to the boundary line from the Pacific Ocean to a point beyond Cerro Pando on the Central Cordillera. The fact that the difficulties to overcome are thus confined to the determination of the line thence to the Atlantic, caused the Secretary of State to entertain the gratifying hope that, in view of the conciliatory and candid spirit animating the two Governments, it would surely be a matter of no great difficulty to reach a satisfactory solution.

Animated by this hope and in response to the desire of both Governments that the United States should lend its good offices in connection with the proposed arbitration, the Secretary of State has arrived at a theory which, in his judgment, should form a basis substantially satisfactory and entirely considerate of the respective contentions.

The Secretary of State, therefore, suggests that the compromise stipulate the acceptance of the line to the extent above mentioned as free from doubt and, continuing, state the question to be arbitrated as the following:

What is the boundary between the Republics of Costa Rica and Panama under and most in accordance with the true interpretation and correct intention of the Loubet award in the light of all the historical, geographical, topographical, and other facts and circumstances surrounding it as well as under the established principles of international law?

The Secretary of State also deems it important, in the interest of justice and for the avoidance of future disputes, that the arbitration convention contain some such stipulation as the following:

All valid titles to land or other valid rights of property in the disputed territory granted or created by either Republic, or by the Republic of Colombia, either before or after the rendition of the Loubet award, shall be recognized and protected in case the result of this arbitration shall be to transfer the locus of such titles and rights and the sovereignty over the same from the Republic granting or creating the same to the other Republic.

As to the very interesting and able suggestion of the Panaman Government that the question should be solved by a joint surveying and arbitrating commission, which should refer to the actual arbitrator all questions of difference between them or between their respective Governments, the Secretary of State has given to this proposal the sympathetic analysis which its importance made appropriate, bearing in mind, however, the fact that the arbitrator would naturally call for a survey in all cases when he found a necessity for more precise topographical information, the Secretary of State has deemed more practical that the arbitrator should proceed and himself call for all data which he might find relevant to the question before him, and that, anticipating this possibility, the protocol should instead contain a provision whereby the two Governments would agree to share the expense of a surveying commission appointed by the arbitrator, if the latter should require such survey at any stage of his consideration of the question.

The Minister of Panama on Special Mission to the Secretary of State.

PANAMAN LEGATION,
Washington, March 10, 1910.

EXCELLENCY: The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Panama on special mission, has given the most careful consideration to the identic memorandum handed to him and to the envoy extraordinary and minister plenipotentiary of the Republic of Costa Rica on special mission, by the Secretary of State at the conference held at the Department of State on March 1, 1910.

It is with great satisfaction that the undersigned notes the recognition of the Secretary of State of the force and validity of the reasons which require the Government of Panama to insist upon a strict adherence to the Loubet award as a necessary prerequisite to any arbitration to which that Government can constitutionally be a party.

It is the understanding of the undersigned, from the memorandum to which reference is made, that this attitude is accepted as the necessary basis for any further proceeding, and with this in view, the undersigned begs to submit the following additional views and considerations upon the subject of the memorandum.

Since the acceptance of the Loubet award must form the basis of the arbitration, the convention of arbitration, it is respectively submitted, should, in the first place, stipulate anew that acceptance by both parties, and should state that the object of the arbitration is confined to the interpretation and application of the Loubet award, it being understood as a part of that award as expressed in the letter of M. Delcasse to Señor Peralta, minister of Costa Rica at Paris, November 23, 1900, "that, in conformity with the terms of Articles II and III of the convention of Paris of January 20, 1886, this boundary line must be drawn within the confines of the territory in dispute as they are determined by the text of said articles."

The undersigned will consent, with pleasure, to a further stipulation that no doubt exists as to the interpretation of that award with respect to the boundary line from Punta Burica on the Pacific Ocean to a point beyond the Cerro Pando on the Central Cordillerra, which he understands to be the suggestion of the Secretary of State, and, with that understanding, is glad to accept for his Government.

With respect to the question to be arbitrated, the undersigned believes that that question would be accurately stated as follows: "What is the boundary between the Republics of Panama and Costa Rica under and in accordance with the correct interpretation and true intention of the Loubet award?"

The arbitrator will, undoubtedly, in the course of his examination of this question, take into account all the circumstances and facts which may, in his view, properly have a bearing upon his decision, but the undersigned submits that the enumeration suggested of the considerations which the arbitrator shall take into account would extend the scope of the arbitration beyond the determination of the question of fact, to wit, the exact location of the line as fixed by the award, which is all that has been proposed; and might lead to a departure from or modification of the Loubet award, which the undersigned does not understand to be within the scope of the proposed arbitration, and to which it would be beyond the power of the undersigned or his Government to agree, for the reasons heretofore given.

With respect to the title to lands within the disputed territory and rights of occupancy of such lands under grant made by either Republic prior to January 1, 1910, the undersigned (all other provisions of the convention being agreed upon) will accept the suggestion of the Secretary of State that such titles shall be respected, and this acceptance also involves titles arising under the grants of the Republic of Colombia made before November 3, 1903, the date of the independence of the Republic of Panama. After that date the Republic of Colombia can have had no right in the territory, nor to make grants to land therein, and there can be no reason for respecting such grants, if any have been made. The undersigned has no objection to the phrase "other valid rights of property" used in the memorandum of the Secretary of State, if it be defined in such a way as to exclude any collateral privileges, exemptions, or concessions running with the land involved or expressed in any grants.

With respect to the question of a survey of the line by a joint commission, as proposed in the letter of the undersigned to the Secretary of State, of February 25, 1910, the undersigned desires to urge again the importance of such course.

The inadequacy and untrustworthiness of the existing maps of the territory through which the line runs is well known and must be conceded. Nothing material can be added to what was submitted to President Loubet which would enable the new arbitrator to fix the line as described in the Loubet award any more precise than the award itself fixes it. These facts, the undersigned again most earnestly urges, would render the projected arbitration necessarily fruitless, and would leave the question eventually where it now stands, unless a survey be made.

Moreover, for the reasons given, there would be grave danger that the arbitrator, if he attempted from the data existing to define the line as fixed by the Loubet award with more precision, would unintentionally and inadvertently depart, in fact, from the award and, without being aware that he was so doing, modify rather than interpret the award. Such a danger is one which the undersigned is not authorized to incur and which it is without doubt the desire of the Secretary, himself, to avoid, but it can not be avoided without a survey.

Furthermore, and as already suggested in the letter of the undersigned of February 25, 1910, to the Secretary of State, whenever a line is finally agreed upon as being the line of the Loubet award, a commission of delimitation to mark the line will ultimately be necessary, and undoubtedly, as usually happens in such cases, differences will arise as to details in the course of such delimitation. By the plan proposed by the Republic of Panama, the ascertainment and delimitation of the exact line under the Loubet award would proceed simultaneously and the whole question would be finally settled, once and for all, in an equitable, proper, and permanent way, without the necessity for any further action whatever upon the part of either Government.

While convinced that the plan proposed in his letter of February 25, 1910, has many and great advantages, the undersigned is, nevertheless, prepared to accept the modification thereof as suggested in the memorandum of the Secretary of State with two stipulations additional to those therein mentioned: First, such survey or surveys

shall be directed by the arbitrator whenever either party shall think it important to its interests and shall so request; second, that the commission to be appointed shall consist of four members, one of whom shall be appointed upon the nomination of each party to the arbitration.

It is the sincere desire of the undersigned and of his Government to obtain a settlement of this entire question at the earliest possible moment, and to cooperate in any means to that end within their constitutional powers. It is with the purpose that this memorandum is submitted.

The Government of the undersigned is sincerely grateful for the interest and intervention of the Government of the United States as friendly mediator upon this question, and its only desire is that the convention to be made and the proceedings to be had thereunder should be such as will lead to a final settlement and will not make the intervention of the United States fruitless or ineffective.

With renewed assurances, etc.

BELISARIO PORRAS.

The Secretary of State to Chargé Weitzel.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 12, 1910.

The Secretary of State directs the legation to deliver the following message at once and in its exact form as coming directly from the Secretary:

HIS EXCELLENCY SAMUEL LEWIS, MINISTER FOR FOREIGN AFFAIRS: From numerous conferences, to which I have given my most careful personal attention, there has resulted a draft convention, which, in the well-considered and final judgment of the Government of the United States, is entirely just and equitable, and amply responsive to every legitimate claim of Panama, and while duly considerate of the views of Costa Rica sacrifices no right of Panama.

I to-day informed both plenipotentiaries that, this being so, unless this convention was accepted any further continuance of the good offices of the United States to bring about arbitration by the Chief Justice, as requested, would be futile and impossible. The plenipotentiary of Costa Rica, who has throughout displayed the greatest patience and a most conciliatory spirit, thereupon announced his preparedness to sign the convention. Dr. Porras promised to lay the matter before you and ask instructions immediately by cable. The next and last meeting of the plenipotentiaries has been fixed for Wednesday the 16th instant at 10 a. m. for the sole purpose of the communication of acceptance or rejection by Panama.

Article I of the draft is as follows:

The Republic of Panama and the Republic of Costa Rica, although they consider that the boundary between their respective territories designated by the arbitral award of his excellency the President of the French Republic the 11th of September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the ninth degree of latitude, have not been able to reach an agreement in respect to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line; and for the purpose of settling their said disagreements agree to submit to the decision of the honorable, the Chief Justice of the United States, who will determine in the capacity of arbitrator the question: What is the boundary between Costa Rica and Panama under and in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th of September, 1900? In order to decide this the arbitrator will take into account all the facts, circumstances and considerations which may have a bearing upon the case, as well as the limitation of the Loubet award expressed in the letter of his excellency, Monsieur Delcasse, Minister for Foreign Relations of France, to his excellency Señor Peralta of November 20, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined upon by the convention of Paris between the Republic of Colombia and the Republic of Costa Rica of January 20, 1886.

Article VII reads:

The arbitral award, whatever it be, shall be held as a perfect and compulsory treaty between the high contracting parties. Both high contracting parties bind themselves to the faithful execution of the award

and waive all claims against it. The boundary line between the two republics as finally fixed by the arbitrator shall be deemed the true line, and his determination of the same shall be final, conclusive, and without appeal, and the Commission of Survey shall thereafter proceed to mark the line permanently in accordance therewith, under the direction of the said arbitrator.

To Article I Dr. Porras suggests adding the following:

And if at any point the boundary line, as specifically described in said award, would otherwise go beyond the confines of said disputed territory, the line of said disputed territory shall constitute the boundary line from such point to the point where next it intersects the line specifically described as the boundary in said award.

The Secretary then went on to say that the survey was thoroughly provided for and that other articles provided for general procedure; that he (the Secretary) believes that Minister Lewis can not fail to agree with him that the addition suggested by Dr. Porras is immaterial and unnecessary, in view of the two vital provisions—that is, Articles I and VII—above quoted. The Secretary adds further that to insist upon it will surely involve the rejection of the convention by Costa Rica and responsibility for the utter failure of these negotiations.

The Secretary adds that he especially desires Minister Lewis personally to appreciate the situation, realizing, as he will, the extreme gravity of a decision, which, if failing to provide for arbitration, would leave this question pregnant with embarrassing possibilities which will inevitably involve the United States and necessarily deepen the recognition of the status quo.

File No. 2491/130.

The Minister for Foreign Affairs of Panama to the Secretary of State.

[Telegram.]

PANAMA, March 14, 1910.

Your cable of March 12 to the legation delivered this morning. Before receipt thereof I had already instructed Dr. Porras, in pursuance to cabinet decision, to sign convention as drawn.

I avail to thank you for the valuable cooperation of yourself and your Government in solving this long-pending and important question.

LEWIS.

File No. 2491/129.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, March 14, 1910.

MR. SECRETARY: As I have already had the honor of verbally saying to your excellency, my Government received with satisfaction the very timely suggestions set out by your excellency in the identic memorandum, delivered on March 1, to the undersigned and to the Hon. Dr. Porras, minister on special mission of Panama. My Government considered that a protocol of submission in which the clauses indicated by your excellency should be solely and simply included, was a sure means of justly and honorably settling the differences concerning the boundary between Costa Rica and Panama, although such a protocol could not take into account, in their entirety, the claims of Costa Rica. Panama, however, saw fit to make some observations concerning said memorandum, which, having been con-

sidered by the Department of State, and discussed at various conferences with the representatives of that Republic and the undersigned, gave rise to a draft convention, which, after it had been examined and fully modified on Friday last at the request of the representative of Panama, was presented to the final consideration of both Republics by the Assistant Secretary of State, the Hon. Huntington Wilson, at the conference held on Saturday, the 12th instant, with the favorable recommendation of the Department of State.

Anxious as my Government is of terminating this ancient controversy, and constantly desirous to show your excellency in the most obvious manner the high appreciation in which it holds your timely and impartial mediation, no less than its profound gratitude for this service, also accepted the draft of the protocol such as was agreed to in the conference of Friday and presented by the Assistant Secretary of State at the conference on the day following.

If, contrary to what is to be hoped, the representatives of Panama desire still to make new changes in the draft protocol, my Government would find itself compelled to believe that the sister Republic of Panama does not desire to enter into an agreement to which with such good will and impartial spirit Costa Rica invited it in deference to their reciprocal interests and the friendship which at all times has united the Costa Ricans and Panamans. In such case my Government will have, as an inevitable necessity, to insist upon the objections which exist against the Loubet award and which beyond all doubt vitiate its binding force.

I ask your excellency to accept, etc.,

LUIS ANDERSON.

File No. 2491/130A.

The Secretary of State to the Minister for Foreign Affairs of Costa Rica.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 18, 1910.

The convention of arbitration was signed last evening by the representatives of Costa Rica and Panama. I congratulate you and your Government most cordially upon this honorable and satisfactory solution of an old and troublesome question.

KNOX.

File No. 2491/131.

The Minister for Foreign Affairs of Panama to the Secretary of State.

PANAMA, March 18, 1910.

I have received your cable of this day advising that the convention of arbitration was signed last evening by the representatives of Panama and Costa Rica, and I wish to thank you once more in my personal name, and in the name of the Republic of Panama, for yours and your Government's good offices in bringing about an honorable and satisfactory solution to the old and troublesome question that existed

¹ Mutatis mutandis, to the minister for foreign affairs of Panama.

between the two sister Republics ever since they were born to independent life, thus showing how earnest is the desire of the United States to promote more and more the respect for the principle of arbitration, which must be a consistent rule to all controversies that may arise between civilized countries, and which also is an unequivocal proof of the friendly and kind disposition that all South American Republics are sure to find in the cordial policy of your Government.

LEWIS.

File No. 2491/132.

The Minister for Foreign Affairs of Costa Rica to the Secretary of State.

[Telegram.]

SAN JOSE, March 19, 1910.

The news which your excellency announces to me is highly satisfactory. So happy an outcome is chiefly due to the good offices of your excellency and your Government. It gives me pleasure to renew, for this fresh proof of friendship, the assurance of the most profound gratitude.

RICARDO FERNANDEZ GUARDIA.

File No. 2491/138.

The Costa Rican Minister on Special Mission to the Secretary of State.

COSTA RICAN LEGATION,
Washington, March 19, 1910.

EXCELLENCY: The convention subscribed yesterday by the undersigned, envoy extraordinary and minister plenipotentiary of Costa Rica on special mission, and Señor Dr. Belisario Porras, envoy extraordinary and minister plenipotentiary of Panama on special mission, under the good auspices of your excellency, for the submission of the boundary question between Costa Rica and Panama to the honorable the Chief Justice of the United States, as arbitrator, is an event of the greatest importance to both countries, thereby having succeeded in removing the only source of difference that existed between them.

The happy mediation of your excellency's Government, and the exquisite tact and decided good will with which your excellency, as well as your excellency's able collaborators in the Department of State, have been pleased to conduct the negotiations, are responsible for the success that they have attained.

My Government, being extremely grateful to that of your excellency for so signal a service, has instructed me to express to your excellency its profound appreciation thereof; and in fulfilling this most pleasant duty it is also very gratifying to me to signify to your excellency my personal recognition of the reiterated proofs of the deference which your excellency has deigned to extend me and which has greatly facilitated the discharge of my mission.

The agreeable relations which I have had the honor to maintain with your excellency will constitute one of the best recollections of my life, and the most pleasing impression of my sojourn in this capital.

I beg, etc.,

LUIS ANDERSON,

File No. 2491/139B.

*The Secretary of State to the Costa Rican Minister on Special Mission.*¹

DEPARTMENT OF STATE,
Washington, March 21, 1910.

SIR: In accordance with your wish, expressed on the occasion of signing the arbitration convention with Dr. Belisario Porras, envoy extraordinary and minister plenipotentiary of Panama on special mission, on the 17th instant, I have the honor to certify to you that it was agreed that the word "arbitro" used in the Spanish text is intended to mean "arbitrator" in the English sense, and that the Chief Justice is to exercise all of the powers implied by that word in English.

Upon thus terminating the mediation of the Government of the United States in this matter permit me to thank you for the spirit of conciliation shown by you throughout this delicate negotiation, and to extend to you the congratulations of my Government and myself upon the successful result of your labors.

Accept, etc.,

P. C. KNOX.

File No. 2491/138.

The Secretary of State to the Costa Rican Minister on Special Mission.

DEPARTMENT OF STATE,
Washington, March 23, 1910.

SIR: I have read with much pleasure your kind note of the 19th instant, in which you express your Government's profound appreciation of the mediation of the Government of the United States which resulted in the signing by yourself and by Dr. Porras of the convention for the submission to the Chief Justice of the United States of the boundary question between Costa Rica and Panama.

You also express your appreciation of the part taken by myself personally and by my associates in the department in the work which has resulted in this happy issue.

I thank you for the kind sentiments expressed in your note, and I assure you that it has given the Government of the United States and the department great gratification to have been afforded an opportunity to aid in the work tending so much to the maintenance of the peaceful and fraternal relation between your country and its neighbor, Panama.

This note would be incomplete did I not add, as I now do, my appreciation of the wisdom, sense of justice, and good temper which you have shown in the conferences, and which have contributed their full share to the success which has resulted from our coming together.

With sincerest wishes for your future well-being and happiness, I beg you to accept, etc.,

P. C. KNOX.

¹ Mutatis mutandis to the Panaman minister on special mission.

File No. 2491/136.

*The Minister of Panama on Special Mission to the Secretary of State.*LEGATION OF PANAMA,
Washington, March 25, 1910.

SIR: I have the honor to acknowledge the receipt of your esteemed favor of the 21st instant, and which so aptly and correctly states the agreement made upon the signing of the arbitration convention by Dr. Luis Anderson, envoy extraordinary and minister plenipotentiary of the Republic of Costa Rica on special mission, and myself as envoy extraordinary and minister plenipotentiary of the Republic of Panama on special mission, on the 17th instant at your residence and in the notable company of which you were the distinguished head.

I avail of the opportunity of thanking you for your very gracious expressions to me in the letter under consideration, as well as on the signing of the convention, and to repeat again the grateful acknowledgement of the Republic of Panama and of myself for the great service and unfailing patience and cordiality manifested by yourself and the able officials of the State Department.

Accept, etc.,

BELISARIO PORRAS.

File No. 2491/144.

The Minister for Foreign Affairs of Costa Rica to the Secretary of State.

[Telegram.]

San Jose, April 8, 1910.

I have the honor to advise your excellency that the arbitration convention with Panama has received the approval of the President of the Republic, and will be submitted in May to the constitutional congress. On this occasion I take pleasure in renewing to your excellency and to the Government of the United States the assurance of our profound gratitude for your friendly mediation.

R. FERNANDEZ GUARDIA.

The Secretary of State to the Minister for Foreign Affairs of Costa Rica.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 9, 1910.

Your telegram of yesterday gave me great pleasure.

P. C. KNOX.

File No. 2491/163.

Minister Merry to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
San Jose, August 22, 1910.

Government of Costa Rica has approved boundary treaty.

MERRY.

File No. 718,1915/171.

Minister Dawson to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Panama, September 27, 1910.

Mr. Dawson reports approval of boundary treaty by Costa Rican Congress.

Text of boundary convention between Panama and Costa Rica.

The Republic of Panama and the Republic of Costa Rica, in view of the friendly mediation of the Government of the United States of America, and prompted by the desire to adjust in an adequate manner their differences on account of their boundary line, have appointed plenipotentiaries as follows: Panama, his excellency Señor Dr. Don Belisario Porras, envoy extraordinary and minister plenipotentiary on special mission; Costa Rica, his excellency Señor Licenciado Don Luis Anderson, envoy extraordinary and minister plenipotentiary on special mission, who, after having communicated their respective full powers, and found them to be in good and due form, have agreed upon the following convention:

ARTICLE I.

The Republic of Panama and the Republic of Costa Rica, although they consider that the boundary between their respective territories designated by the arbitral award of his excellency the President of the French Republic the 11th of September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the ninth degree of north latitude, have not been able to reach an agreement in respect to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line; and for the purpose of settling their said disagreements agree to submit to the decision of the honorable the Chief Justice of the United States, who will determine, in the capacity of arbitrator, the question, What is the boundary between Panama and Costa Rica under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th of September, 1900?

In order to decide this the arbitrator will take into account all the facts, circumstances, and considerations which may have a bearing upon the case, as well as the limitation of the Loubet award expressed in the letter of his excellency M. Delcassé, minister of foreign relations of France, to his excellency Señor Peralta, minister of Costa Rica in Paris, of November 23, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the convention of Paris between the Republic of Colombia and the Republic of Costa Rica of January 20, 1886.

ARTICLE II.

If the case shall arise for making a survey of the territory, either because the arbitrator shall deem it advisable or because either of the

high contracting parties shall ask for a survey (in either of which cases it shall be made), it shall be conducted in the manner which the arbitrator shall determine upon, and by a commission of four engineers, one of whom shall be named by the President of Panama, a second by the President of Costa Rica, and the two others by the arbitrator. The persons selected by the arbitrator shall be civil engineers in private practice, in every respect independent and impartial, and without personal interest of any kind as respects either Panama or Costa Rica, and not citizens or residents of either of said countries.

Said commission shall make detailed reports, with maps of the territory covered by their survey or surveys, which reports and maps, with the data relating thereto, shall be returned to the arbitrator and copies thereof shall be communicated to the high contracting parties.

ARTICLE III.

If, by virtue of the award of the arbitrator, any portion of the territory now administered by either of the high contracting parties shall pass to the jurisdiction and sovereignty of the other, the titles to lands or other real property rights in said region granted by the Government of the former, prior to the date of this convention, shall be recognized and protected just as if they had issued from the other of them.

ARTICLE IV.

One month after the ratifications of this convention are exchanged, the representatives of the two Governments, or of either of them, shall make request of the Chief Justice to accept the position of arbitrator.

Within four months from the date when the Chief Justice shall communicate to the signatory Governments, through their respective legations in Washington, his willingness to accept the position of arbitrator, each said Government through its representative shall present to the arbitrator a complete exposition of the question and of its pretensions, together with the documents, allegations, and proofs upon which it rests them.

If any survey shall be directed, as provided in Article II, said period of four months shall begin from the delivery to the arbitrator and to the high contracting parties of the reports, maps, and data of the commission of survey hereinbefore provided for.

The arbitrator shall communicate to the representative of each Government the case, with its exhibits, of the other party within two months after they shall be presented to him. Within the period of six months after the arbitrator shall so communicate the same, answers thereto shall be made, and such answers shall be limited to the subjects treated of in the allegations of the opposite party. The arbitrator may, in his discretion, extend any of the foregoing periods.

The cases and the proofs sustaining the same shall be presented in duplicate and the arbitrator shall deliver a copy to the representative of each Government.

Either high contracting party may submit secondary evidence of documents and records when it is not practicable to produce the originals thereof.

ARTICLE V.

The Chief Justice shall make his decision within three months following the closing of the arguments.

ARTICLE VI.

The compensation and expenses of the arbitrator, including the expenses of any survey and delimitation which may be made, shall be equally borne by the high contracting parties.

ARTICLE VII.

The award, whatever it be, shall be held as a perfect and compulsory treaty between the high contracting parties. Both high contracting parties bind themselves to the faithful execution of the award and waive all claims against it.

The boundary line between the two Republics as finally fixed by the arbitrator shall be deemed the true line, and his determination of the same shall be final, conclusive, and without appeal.

Thereupon a commission of delimitation shall be constituted in the same manner as provided in Article II with respect to the commission of survey, and shall immediately thereafter proceed to mark and delimitate the boundary line, permanently, in accordance with such decision of the arbitrator. Such commission of delimitation shall act under the direction of the arbitrator, who shall settle and determine any dispute as to the same.

ARTICLE VIII.

The present convention shall be submitted for the approval of the respective congresses of the Republics of Panama and Costa Rica and ratifications shall be exchanged in the city of Washington as soon as possible.¹

In witness whereof the respective plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at Washington the 17th day of March, A. D. 1910.

[Signed]

LUIS ANDERSON.

[Signed]

BELISARIO PORRAS.

¹ Ratifications were exchanged at Washington on May 17, 1911.

PERSIA.

DEATH OF HIS IMPERIAL HIGHNESS THE REGENT OF PERSIA.

File No. 891.001.

The Persian Chargé to the Secretary of State.

[Telegram.]

BERKELEY, CAL., September 23, 1910.

I have received following cable from my Government [translation]:

On Thursday, the 17th of Ramazan (Sept. 22), "His Imperial Highness the Regent passed away. Act in accord with your duty.

HUSSEIN KULI.
MIRZA ALI KULI KHAN.

File No. 891.001.

The President of the United States to the Shah of Persia.

[Telegram.]

THE WHITE HOUSE,
Washington, September 23, 1910.

I have received with profound regret the announcement of the death, on September 22, of His Imperial Highness the Regent.

I convey to you my sincere condolence.

WILLIAM H. TAFT.

File No. 891.001.

The Secretary of State to the Minister for Foreign Affairs of Persia.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 23, 1910.

Accept an expression of my sympathy and that of the Government and people of the United States for the loss sustained by His Imperial Majesty and the Government and people of Persia in the death of the Prince Regent.

KNOX.

File No. 891.001.

The Acting Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 23, 1910.

The President has cabled to the Shah his sympathy upon the death of the Regent, and the Secretary of State has cabled similarly to the

minister for foreign affairs. If you have not already done so, you will convey to the minister for foreign affairs proper expression of sympathy.

ADEE.

File No. 891.001.

The Acting Secretary of State to the Persian Chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 23, 1910.

Your announcement of the death of His Imperial Highness the Regent has been received by me with great regret. Accept an expression of my sympathy.

The President has by telegraph conveyed his condolence to His Imperial Majesty the Shah, and the Secretary of State has also telegraphed in the same sense to the minister of foreign affairs of Persia.

ALVEY A. ADEE.

File No. 891.001.

The Shah of Persia to the President of the United States.

[Telegram.]

TEHERAN, September 30, 1910.

I beg you, Mr. President, to accept my earnest thanks for the condolence you were so good as to send me on the occasion of the death of the Regent Azedolmolk.

In the name of His Majesty the Shah:

MOSTOFIOLMEMALEK,
President of Council.

File No. 891.001.

The Minister for Foreign Affairs of Persia to the Secretary of State.

[Telegram.]

TEHERAN, September 30, 1910.

The Imperial Government very sensible of the expression of your Government's sympathy on the occasion of the death of His Highness the Regent Azedolmolk. I beg you to accept my sincere thanks.

HUSSEIN KULI.

PORTUGAL.

REVOLUTION IN PORTUGAL.

File No. 853.00/92.

Chargé Lorillard to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 4, 1910.

As the result of a Republican leader's assassination certain Portuguese war vessels revolted early this morning and began bombarding city. The army returned fire. Disturbances also have taken place in the city. At the present moment the army controls city and remains loyal. No damage to American life and property reported or probable. Unable to communicate with the minister, who is in the country.

LORILLARD.

File No. 853.00/91.

Minister Gage to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 4, 1910.

Two Portuguese war vessels now bombarding palace in which King now is. Insurrectionists now in possession of two forts.

GAGE.

File No. 853.00/81.

Minister Gage to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 5, 1910.

After fighting all night in the city and in front of legation where we have been continuously since yesterday morning many Loyalist soldiers surrendered. Most public buildings and some forts fly Republican flag. It is reported that the King of Portugal is in Brazilian war vessel *S. Paulo* and that a republic has been proclaimed.

GAGE.

File No. 853.00/82.

The Provisional President of Portugal to the Secretary of State.

[Telegram.]

LISBON, October 5, 1910.

The people and army have just abolished the monarchical institutions and proclaimed the Republic, which embodies their aspirations of old. Enthusiasm is indescribable. Provisional government

has just been installed as follows: President, Mr. Theophilo Braza; interior, Mr. Antonio Jose D. Almeida; war, Col. Xavier Barreto; justice, Mr. Affonso Costa; marine and colonies, Col. Azevedo Gomez; foreign affairs, Mr. Berdino Machado; public works, Mr. Antonio Luiz Gomes. Public order is everywhere assured by the action of the Government and the solidarity of the citizens. Communications from the provinces are received every moment, saying that the advent of the Republic was hailed with the greatest enthusiasm.

THEOPHILO BRAZA.

File No. 853.00/82.

Minister Gage to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 5, 1910.

Provisional republican government has been proclaimed. At this juncture all fire has ceased.

GAGE.

File No. 853.00/85.

Minister Gage to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 6, 1910.

Since October 5, 5 p. m., city unusually quiet. People apprehensive but orderly. Provisional government is in charge of foreign office and all national offices in Lisbon. King and royal family fled last night aboard the royal yacht.

GAGE.

File No. 853.00/89.

Minister Gage to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Lisbon, October 7, 1910.

Shall I transmit ordinary business of this office with the provisional government by unofficial action?

GAGE.

File No. 853.00/95.

The Portuguese Minister to the Secretary of State.

[Translation.]

PORTUGUESE LEGATION,
Washington, October 7, 1910.

MOST ILLUSTRIOUS AND EXCELLENT SIR: By the way of information I have the honor to advise your excellency that I have received from Lisbon a telegram reading as follows:

PORTUGUESE LEGATION, NEW YORK.

Lisbon, October 6-10.—Republic proclaimed. Provisional Government presided over by Dr. Theophilo Braza. Please communicate happy intelligence to Government and our fellow countrymen. Perfect order. BERNARDINO MACHADO, *Minister of Foreign Affairs.*

I avail, etc.

VISCOUNT DE ALTE.

File No. 853.00/89.

The Acting Secretary of State to Minister Gage.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1910.

Your October 7. You will keep up such intercourse with the responsible de facto authorities as may be necessary for full security of any American interests and maintain provisional relations pending the obvious reestablishment of constitutional order, when you will receive further instructions.

ADEE.

File No. 853.00/111.

Minister Gage to the Secretary of State.

No. 19.]

AMERICAN LEGATION,
Lisbon, October 10, 1910.

SIR: I have the honor to report that the civil war which overturned the monarchy began in the streets of Lisbon at 5.30 a. m., October 4, 1910, and ended about 10 o'clock a. m. upon the 5th instant, at which time the last of the royal forces engaged in the battle surrendered to the insurgents. Almost immediately thereafter, upon the same day, the formation of a Provisional Republican Government became an accomplished fact.

The revolution was perfectly planned and carried to success in every detail with great celerity, so much so that before 7 o'clock p. m. of the day of said surrender the Provisional Government was in the possession of the full machinery of Government and transmitting notes in the usual way to all of the ministers resident here in regard to the governmental crisis.

As early as 7 o'clock of that evening I received from the foreign office a note, a copy and a translation of which are herewith inclosed, giving the names of the appointed officers, etc., of the new government. There has been no pillaging, and good order has prevailed. The King has fled the country, the Republican Provisional Government is supreme in Portugal, and the people have acquiesced in the change.

I believe that the newly organized power is capable of maintaining itself, and that it will continue to keep a place as a nation.

The foregoing somewhat brief summary, taken in connection with my telegrams, presents the essential facts of the situation.

I have, etc.,

HENRY T. GAGE.

[Inclosure 1—Translation.]

The Provisional Government to Minister Gage.

TOWN HALL OF LISBON

EXCELLENCY: In the name of the Provisional Government of the Portuguese Republic I have the honor to communicate to you that the Republic is proclaimed by the will of the nation, the army and the navy, under a provisional government con-

stituted as follows: Presidency, Dr. Theophilo Braza; interior, Antonio Jose d'Almeida; justice and worship, Dr. Affonso Costa; foreign affairs, Dr. Bernardino Machado; finances, Baziles Telles; public works, Dr. Antonio Luiz Gomes; war, Col. Barreto; navy and colonies, Capt. Andro d'Azevedo Gomes.

Be pleased, etc.,

THEOPHILO BRAZA.
ANTONIO JOSE D'ALMEIDA.
AFFONSO COSTA.

LISBON, October 5, 1910.

File No. 853.00/95.

The Acting Secretary of State to the Portuguese Minister.

No. 72.]

DEPARTMENT OF STATE,
Washington, October 12, 1910.

SIR: I have the honor to acknowledge with thanks the receipt of your note of the 7th instant informing the department of the receipt by you of a telegram from Lisbon which reads as follows:

Republic proclaimed. Provisional Government presided over by Doctor Theophilo Braza. Please communicate happy intelligence to Government and fellow countrymen. Perfect order. BERNARDINO MACHADO, *Minister of Foreign Affairs*.

In reply I beg to state the American minister at Lisbon has been directed by cable to maintain such intercourse with the de facto authorities as is necessary for the security of interests of American citizens in Portugal, and to maintain provisional relations with those authorities, pending the obvious reestablishment of constitutional order.

Accept, etc.,

ALVEY A. ADEE.

[To be continued in Foreign Relations, 1911.]

COMMERCIAL ARRANGEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PORTUGAL.

Signed at Washington, June 28, 1910.

The Portuguese Minister to the Acting Secretary of State.

[Translation.]

THE PORTUGUESE LEGATION,
Washington, June 28, 1910.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves, duly authorized to that effect by his Government, has the honor to notify his excellency the Acting Secretary of State of the United States of America, that, in view of the issuance by the President of the United States of America of the proclamations of January 29, 1910, and of February 21, 1910, extending to imports into the United States of America from the Kingdom of Portugal and the Azores and Madeira Islands and from the Portuguese possessions, the benefit of the complete minimum tariff of the United States of America, it having been ascertained that no undue discrimination was being exercised in the Kingdom of Portugal, the Azores, and Madeira Islands or the Portuguese possessions, against the United States of America or the products thereof, and the principle of spe-

cial concessions by Portugal to Spain and Brazil having thus been recognized, the Portuguese Government has decided to grant the citizens, merchandise, and ships of the United States of America the same treatment in Portugal and her possessions as that accorded to the citizens, merchandise, and ships of the most favored nation on the condition that the subjects, merchandise, and ships of Portugal and of her possessions will likewise be treated in the United States of America in the same manner as those of the most favored nations.

The undersigned avails himself of this opportunity in order to convey to the honorable the Acting Secretary of State of the United States the renewed assurance of his highest consideration.

VISCOUNT D'ALTE.

The Acting Secretary of State to the Portuguese Minister.

DEPARTMENT OF STATE,
Washington, June 28, 1910.

The undersigned, Acting Secretary of State of the United States of America, has the honor to acknowledge the receipt of the note of to-day's date in which his excellency the envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves, has been good enough to inform him that—

in view of the issuance by the President of the United States of America of the proclamations of January 29, 1910, and of February 21, 1910, extending to imports into the United States of America from the Kingdom of Portugal, the Azores and Madeira Islands, and from the Portuguese possessions, the benefit of the complete minimum tariff of the United States of America, it having been ascertained that no undue discrimination was being exercised in the Kingdom of Portugal, the Azores and Madeira Islands or the Portuguese possessions, against the United States of America or the products thereof, and the principle of special concessions by Portugal to Spain and Brazil having thus been recognized, the Portuguese Government has decided to grant the citizens, merchandise, and ships of the United States of America the same treatment in Portugal and her possessions as that accorded to the citizens, merchandise, and ships of the most favored nations on the conditions that the subjects, merchandise, and ships of Portugal and of her possessions will likewise be treated in the United States of America in the same manner as those of the most favored nations.

Taking note of this declaration the undersigned hastens to declare, in the name of the Government of the United States of America, that the subjects, merchandise, and ships of Portugal and of her possessions will be treated in the United States of America in the same manner as those of the most favored nations.

The undersigned begs his excellency the envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves to accept the renewed assurances of his highest consideration.

HUNTINGTON WILSON.

The Acting Secretary of State to the Portuguese Minister.

DEPARTMENT OF STATE,
Washington, June 28, 1910.

The undersigned, Acting Secretary of State of the United States of America, wishes to place it on record that, his attention having been called, on the occasion of the exchange of notes respecting the

reciprocal concession of the most favored nation treatment to the citizens, merchandise, and ships of the two countries, by his excellency the envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves, to the final protocol annexed to the treaty of commerce recently concluded between Portugal and Germany whereby the names of "Porto" and "Madeira" are recognized as being strictly designations of origin and whereby it is agreed to prevent the sale in the German Empire under these names of wines not originally from the Portuguese districts of Douro and of the island of Madeira, he hastens, in relation to this subject, to declare that the Government of the United States of America will fully exercise the powers vested in it by law in order to protect in the United States of America the names "Porto" and "Madeira"; and that, with this end in view, it will apply strictly laws and rulings forbidding the labeling or branding of wine so as to deceive or mislead the purchaser concerning the nature or the origin of the product.

It is also understood that, should the Congress of the United States act on the recommendation of the President in regard to ship subsidies, the Government of the United States of America will favor the establishment of a subsidized line of steamships plying directly between the United States and Portugal.

The Acting Secretary of State of the United States of America begs his excellency the envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves to accept the renewed assurances of his highest consideration.

HUNTINGTON WILSON.

The Portuguese Minister to the Acting Secretary of State.

[Translation.]

THE PORTUGUESE LEGATION,
Washington, June 28, 1910.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the King of Portugal and of the Algarves, has the honor to acknowledge the receipt of the note of this date by which his excellency the Acting Secretary of State of the United States of America is good enough to inform him that—

His attention having been called, on the occasion of the exchange of notes respecting the reciprocal concession of the most favored nation treatment to the citizens, merchandise, and ships of the two countries, to the final protocol annexed to the treaty of commerce recently concluded between Portugal and Germany whereby the names of "Porto" and "Madeira" are recognized as being strictly designations of origin, and whereby it is agreed to prevent the sale in the German Empire under these names of wines not originally from the Portuguese districts of Douro and the island of Madeira, he hastens, in relation to this subject, to declare that the Government of the United States of America will fully exercise the powers vested in it by law in order to protect in the United States of America the names "Porto" and "Madeira," and that, with this end in view, it will apply strictly laws and rulings forbidding the labeling or branding of wine so as to deceive or mislead the purchaser concerning the nature or origin of the product; and that it is also understood that, should the Congress of the United States act on the recommendation of the President in regard to ship subsidies, the Government of the United States of America will favor the establishment of a subsidized line of steamships plying directly between the United States and Portugal.

The undersigned having taken due note, in the name of his Government, of these declarations of the honorable the Acting Secretary of

State of the United States of America, avails himself of this opportunity in order to convey to his excellency the renewed assurances of his highest consideration.

VISCOUNT D'ALTE.

MILITARY SERVICE CASE OF ANTONIO S. NUNES.

File No. 22918.

Minister Bryan to the Secretary of State.

No. 574.]

AMERICAN LEGATION,

Lisbon, December 14, 1909.

SIR: I have the honor to transmit herewith copies of the telegrams exchanged with the consul at St. Michael's regarding the arrest in the island of Terceira of a minor son of Antonio S. Nunes, a naturalized American citizen. The father's registration certificate has reached me since my first message to Mr. Creevey. In this document, a copy of which is also herewith inclosed, it is recorded that Nunes's sons were born in Terceira and are living there now, hence my inquiry whether the young man imprisoned was residing in the United States at the time of his father's naturalization or if he had lived there afterwards. In all cases with which I am familiar this point of a minor claimant's residence in the country of the parent's adoption has been deemed essential in deciding on the right of seeking protection from the American Government. The question having been satisfactorily settled by Consul Creevey, I had a preliminary talk with the minister for foreign affairs about the case. After I had addressed him the note, of which I transmit a copy, the minister appointed the following day for an interview. As I was prevented by illness from leaving the house, the secretary of legation went to the foreign office in my place. Mr. Lorillard was informed that the minister had already telegraphed to the proper authorities at Terceira for information, and that he would that day have an interview with the minister of war on the subject. Later, to-day or to-morrow, I expect a reply from the foreign office.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure]

Minister Bryan to the Minister for Foreign Affairs.

AMERICAN LEGATION,

Lisbon, December 10, 1909.

EXCELLENCY: Telegrams from the Azores inform me that the minor son of an American citizen, Antonio S. Nunes, has been imprisoned on the island of Terceira for non-performance of military duty. As said Antonio S. Nunes took out his naturalization papers in the year 1901, when his son was 12 years of age, and was residing in America as he did for 11 years up to 1909, I am sure your excellency will recognize his right to call upon his father's adopted country for protection. Whatever might have been the attitude of His Most Faithful Majesty's Government prior to the celebration of the recent convention, I am sure that the provisions of the latter will be recognized as emphasizing the rights of the naturalized American citizen and consequent exemptions for himself and his family in just such cases as this. Your excellency's well-recognized sense of justice will, I am confident, insure prompt righting of any wrong done to a youth who, when a child, followed his father to the country of the latter's adoption, and who, while on a brief visit to relatives, has been imprisoned evidently under a misconception of his real status as to citizenship.

I avail, etc.,

CHARLES PAGE BRYAN.

File No. 88919.

Minister Bryan to the Secretary of State.

No. 576.]

AMERICAN LEGATION,
Lisbon, December 20, 1909.

SIR: Referring to my 574 of December 14, 1909, relative to the arrest and detention for nonperformance of military service of Antonio Nunes, a minor son of a naturalized American citizen, I have the honor to inclose herewith a copy and a translation of a note from the foreign minister, dated December 13, 1909, in reply to my note of the 10th instant, a copy of which was inclosed with my aforementioned dispatch.

Owing to the ministerial crisis I have been unable to further discuss the case with the Portuguese authorities. As soon as the new minister for the foreign affairs is appointed I shall take up the case with him.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure—Translation.]

*The Minister for Foreign Affairs to Minister Bryan.*FOREIGN OFFICE,
Lisbon, December 13, 1909.

EXCELLENCY: I gave immediate attention to the note which your excellency did me the honor to direct on the 10th instant, relative to the matter of the imprisonment in the Azores for nonperformance of military service of a son of the naturalized American citizen, Antonio S. Nunes.

In order that the necessary details may be asked from the competent department I have to request your excellency to give me the name of the youth.

Your excellency knows beforehand that I shall endeavor to have your excellency's claim considered in the most benevolent manner, but I can not conceal from your excellency that at first sight it does not appear to be in condition to be favorably settled by His Majesty's Government.

If it is true that it is the question of a minor son of a Portuguese, who has become a naturalized American, a class of persons not mentioned in the convention of May 7, 1908, His Majesty's Government could not help respecting the stipulations of section 2 of article 22 of the Portuguese Civil Code, according to which the minor children of a Portuguese naturalized a foreigner, born before his naturalization, do not lose ipso facto their nationality as Portuguese.

As soon as I receive the name and any other information which your excellency can furnish me I shall submit the subject to the competent department, and, as I have said, your excellency can rest assured that, within the limits of the law, I shall endeavor that your excellency's claim be considered in a less unfavorable spirit.

I avail, etc.,

CARLOS ROMA DE BOGAGE.

File No. 22918.

The Secretary of State to Minister Bryan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 12, 1910.

Your 576, December 20th. Inform Portuguese Government without delay this Government holds that persons naturalized under section 2172, Revised Statutes, come within provisions article 1, treaty of naturalization, November 14, 1908. Similar construction has been put upon provisions in our naturalization treaties with other countries, and it is, therefore, earnestly hoped that Nunes will be released immediately. If he was forced by officials in Azores to

swear allegiance to Portugal it can not be considered that he has expatriated himself under the provisions of the first paragraph of section 11 of the expatriation act of March 2, 1907, United States Statutes at Large, volume 34, chapter 2534, as it is evident that the law refers to an oath of allegiance taken voluntarily. This should be clearly explained in your protest to foreign office. As the case in question will establish a precedent, it is deemed one of importance, and you are instructed to use your best efforts toward securing the immediate release of Nunes, reporting to the department by cable, at the earliest opportunity, the result of such action.

KNOX.

File No. 22819/5.

Chargé Lorillard to the Secretary of State.

No. 593.]

AMERICAN LEGATION,
Lisbon, January 18, 1910.

SIR: Referring to the department's telegraphic instructions of January 12, 1910, relative to the arrest for nonperformance of military service of Antonio Silveira Nunes, jr., at Terceira, Azores, which was the subject of this Legation's dispatch No. 574, of December 14, 1909, I have the honor to report that before the receipt of the instructions Mr. Bryan protested at the foreign office against the detention of Nunes, which protest he renewed in my presence at his farewell audience with the minister for foreign affairs, and at the same time left with him a memorandum, a copy of which is herewith inclosed,¹ based on the department's cable.

Yesterday the foreign minister stated to me that he had conferred about the case with the Minister of War, who had telegraphed to Terceira for additional information in the premises, and that the department's views on Nunes's nationality were being considered by the law officers of his department. The minister promised to give me a definite answer before the end of the week and he intimated that Nunes would probably be released. This I cabled to the department last evening.

I have, etc.,

GEORGE LORILLARD.

File No. 22918/7.

Chargé Lorillard to the Secretary of State.

No. 598.]

AMERICAN LEGATION,
Lisbon, January 31, 1910.

SIR: In continuation of my No. 595² of the 25th instant, relative to the arrest and imprisonment of Antonio Silveira Nunes, jr., a minor son of a naturalized American citizen, for nonperformance of military service, I have the honor to report that on the 26th instant the minister for foreign affairs verbally informed me that orders for Nunes's release had been cabled to Terceira on the previous Monday, as he had promised me would be done in his interview with me of the 23d instant. On the 27th the minister confirmed this information in a formal note, a copy and a translation of which are herewith

¹ Not printed, see telegram.² Not printed.

inclosed. In view of section 2 of article 22 of the Portuguese Civil Code, a copy and a translation of which are inclosed herewith, the note expresses the hope that the apparent conflict between the American and Portuguese laws on the subject of the nationality of minor children of naturalized citizens may be settled to the satisfaction of both Governments.

In my reply, a copy of which is also inclosed, I informed the minister that I would transmit you a copy of his note for such action as you may desire to take on the question.

I have, etc.,

GEORGE LORILLARD.

[Inclosure 1—Translation.]

The Minister for Foreign Affairs to Chargé Lorillard.

FOREIGN OFFICE,
Lisbon, January 27, 1910.

In continuation of the communication which my predecessor addressed to Mr. Page Bryan on December 13 last, and in reply to those which you have since sent me, I have the honor to communicate to you that on the 24th instant a telegraphic order was sent to the military commander of the Azores instructing that the drafting and enlistment of the youth Antonio Silveira Nunes, jr., be considered void. By this order, which implies the immediate release of the youth, you have the proof of the desire of His Majesty's Government to acquiesce in the demands of the Government of the Republic.

The reasons on account of which His Majesty's Government was unable, without a complete examination of the case, to come to a decision are based entirely on motives of a legal order.

The Portuguese Civil Code states (par. 2 of art. 22) that the naturalization in a foreign country of a Portuguese does not imply the loss of Portuguese nationality of the minor children born before the naturalization, except when these declare, after their majority or emancipation, that they desire to follow the nationality of their father.

On the other hand, the legation of the United States of America declares that the children of naturalized American citizens, in the conditions of the youth Silveira Nunes, are American citizens.

In the naturalization convention of 1908 between Portugal and the United States of America we do not seem to find a solution of the matter, because it does not expressly refer to the children of naturalized persons.

It thus happens that a conflict of laws takes place which it is necessary to settle. The cordial sentiments between Portugal and the United States of America and the spirit of conciliation, which can not fail to influence in this negotiation, gives me the pleasant assurance that without difficulties to either Government we may reach a rapid agreement in this matter.

I avail, etc.,

A. EDUARDO VILLACA.

[Inclosure 2.]

Chargé Lorillard to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Lisbon, January 29, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of January 27, 1910, in which I am informed that telegraphic orders were sent on the 24th instant to the military authorities in the Azores to immediately release the youth Antonio Silveira Nunes, jr., who had been in prison at Terceira for the evasion of military service.

Your excellency adds that there appears to be a conflict between the Portuguese and American laws concerning the status of the minor children of naturalized citizens, and believes that an agreement on this question may soon be reached by the two Governments.

I shall not fail to transmit to the American Government a copy of your excellency's note for its consideration and as a base for such instructions as it may be pleased to send me on this subject. For my own part I desire to reiterate to your excellency my most sincere thanks for and appreciation of the courtesy and consideration shown me by your excellency in this affair.

I avail, etc.,

GEORGE LORILLARD.

RUSSIA.

AGREEMENT BETWEEN JAPAN AND RUSSIA RELATIVE TO MANCHURIA.

The Russian Ambassador to the Secretary of State.

[Translation.]

No. 335.]

RUSSIAN EMBASSY,
Washington, June 28-July 11, 1910.

MR. SECRETARY OF STATE: By order of my Government I caused to be delivered to the Department of State a copy of a convention between Russia and Japan, signed at St. Petersburg June 21-July 4 by Mr. Iswolsky, minister for foreign affairs, and Baron Motono, ambassador of Japan near the imperial court.

I am also instructed to express to your excellency, in taking this step, the hope that you will be pleased to find in this convention, which once more attests our pacific relations with Japan, and is aimed at neither the interests of China nor those of the other powers, an additional pledge for the stability of general peace in the Far East.

I seize this occasion, Mr. Secretary of State, etc.,

ROSEN.

[Inclosure---Translation.]

Copy of a convention signed at St. Petersburg, June 21-July 4, 1910, by Mr. Iswolsky, minister for foreign affairs, and Baron Motono, ambassador of Japan.

The Imperial Government of Russia and the Imperial Government of Japan, sincerely adhering to the principles established by the convention concluded between them July 17-30, 1907, and desiring to develop the effects of that convention with a view to the consolidation of peace in the Far East, have agreed to complete the said arrangement with the following provisions:

ARTICLE I. With the object of facilitating communications and developing the commerce of nations, the two high contracting parties engage to lend each other their friendly cooperation with a view to the amelioration of their respective railway lines in Manchuria and the improvement of the connecting service at the junctions of the said railways and to refrain from any competition inimical to the accomplishment of that purpose.

ART. II. Each contracting party undertakes to maintain and respect the status quo in Manchuria as resulting from all the treaties, conventions, or other arrangements concluded up to this date either between Russia and Japan or between those two powers and China. Copies of the said arrangements have been exchanged between Russia and Japan.

ART. III. Should any event arise likely to threaten the above-mentioned status quo the two high contracting parties will in every case open communications between themselves so as to agree upon such measures as they may deem necessary to take for the maintenance of the said status quo.

The Japanese Ambassador to the Secretary of State.¹

The Governments of Japan and Russia have for some time been engaged in examining the Russo-Japanese convention of July 17-30, 1907, with a view to seeing if it might not be possible by means of additional stipulations to strengthen and confirm the situation with which that convention had to deal. Happily, the two powers have been able to reach an accord on the subject. That accord is embodied in the new convention, and the Imperial Government believe that the Government to which you are accredited will find in such convention fresh guaranties as to the maintenance of the status quo in Manchuria and the consolidation of peace in the extreme east.²

Minister Calhoun to the Secretary of State.

AMERICAN LEGATION,
Pekin, July 23, 1910.

SIR: Referring to my telegram, No. 31, of to-day's date,³ I have the honor to inclose herewith a copy in translation of the Wai-wu-Pu's circular note in the nature of a reply by China to the Russo-Japanese agreement of July 4, 1910.

I have, etc.,

W. J. CALHOUN.

[Inclosure—Translation.]

The Prince of Ch'ing to Minister Calhoun.

FOREIGN OFFICE,
Peking, July 21, 1910.

YOUR EXCELLENCY: I have the honor to inform your excellency that the Japanese minister to China and the Russian chargé d'affaires in Peking have handed to me the text of the Russian-Japanese agreement signed on July 4, 1910. My board has subjected this agreement to a deep scrutiny of more than ordinary thoroughness.

Now, therefore, inasmuch as Japan and Russia mutually agree to respect and maintain the Chinese-Japanese, Chinese-Russian, and Japanese-Russian treaties, they therefore recognize and reaffirm the Japanese-Russian treaty of 1905, which explicitly recognizes the sovereignty of China in the three eastern Provinces, conserves equal opportunities for all nations, and promises assistance to China in the work of instituting measures for the encouragement of the industries and commerce of Manchuria; and likewise the principle of the opening of Manchuria embodied in the Manchurian treaty concluded between China and Japan in the thirty-first year of Kuanghsu. The Chinese Government must necessarily, therefore, in conformity with the spirit of the Japanese-Russian treaty, implement the intention of the Chinese-Japanese treaty, and unconditionally uphold all their provisions relating to the exercise of China's sovereign rights, equal opportunity for all nations, and the development of the industries and commerce of Manchuria, in the hope that thus may be served the best interest of all.

In addition to notifying the Japanese minister to China and the Russian chargé d'affaires in Peking to the above effect, I have the honor to make this communication to your excellency requesting that it be transmitted to your excellency's Government.

A necessary dispatch.

(SEAL OF THE WAI-WU-PU.)

¹ A telegram from the minister of foreign affairs, Tokyo, received at Washington, July 5 1910. Left at the Department of State by a Secretary of the Japanese Embassy.

² For convention, copy of which accompanied this note, see *supra*.

³ Not printed.

File No. 761.94/80.

The Acting Secretary of State to the Russian Ambassador.¹

No. 195.]

DEPARTMENT OF STATE,
Washington, July 30, 1910.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of June 28-July 11, 1910, transmitting a copy of the convention between Russia and Japan signed at St. Petersburg on June 21-July 4.

Understanding that the object of the convention is to confirm the status quo as established by all the treaties of the Powers with or relating to China, and by the unanimous declarations of the Powers regarding the equality of opportunity and preservation of Chinese sovereignty, I am happy to find in the new convention, as pointed out by your excellency, an additional pledge of the stability of general peace in the Far East.

Accept, etc.,

HUNTINGTON WILSON.

The Chinese Minister to the Secretary of State.

No. 13.]

IMPERIAL CHINESE LEGATION,
Washington, August 11, 1910.

SIR: I have the honor to inform you that I have received telegraphic instructions from my Government to convey to you the substance of a note addressed by the Wai-wu-Pu to the representatives of Japan and Russia at Peking regarding the recent treaty concluded between those two countries with reference to Manchuria. A translation of the telegram is as follows:

By this treaty Japan and Russia having mutually engaged to give special importance to the existing treaties between China and Japan, between China and Russia, and between Japan and Russia, the treaty, therefore, is in conformity with and at the same time confirms the treaty of peace of 1905 between Japan and Russia, which recognizes the sovereignty of China in the three Provinces of Manchuria, upholds the principle of equal opportunity for all nations, and recommends the adoption by China of necessary measures for the industrial and commercial development of the three Provinces of Manchuria, as well as the convention of the thirty-first year of Kuanghsu (1905) between China and Japan, which provides for the opening of the three Provinces of Manchuria to international trade. The obligation of the Imperial Government to carry out the intent of the treaties between China and Japan in accordance with the principles laid down in the treaty of peace between Japan and Russia remains the same. It is the purpose of the Imperial Government to maintain with unremitting endeavors in matters affecting the exercise of China's sovereign rights, the principle of equal opportunity for all nations, and the industrial and commercial development of the three Provinces of Manchuria, a policy that will operate for the benefit of all concerned.

I understand that copies of the above-mentioned note have been communicated to the representatives of all the Powers at Peking.

Accept, etc.,

CHANG YIN TANG.

¹ Mutatis mutandis, to the Japanese ambassador.

JURISDICTION OF TREATY POWERS OVER CITIZENS OF NON-TREATY NATIONS.

File No. 393.00/3.

Aide-mémoire from the Russian Embassy.

IMPERIAL RUSSIAN EMBASSY,
Manchester, September 17, 1910.

Some time in March, 1909,¹ the Chinese Government informed the foreign representatives in Peking that henceforth they would take upon themselves the protection and defense of the interests of such foreigners, subjects, and citizens of powers not having treaties with China who might be sojourning or traveling in China, claiming at the same time to exercise over such foreigners the same rights of jurisdiction as over their own subjects.

This notification seems at the time not to have been considered by the powers as worthy of much attention. The Russian representatives alone replied to the Chinese foreign department that this intention of the Chinese Government would constitute an important departure from established usage, and could therefore not be put in operation without previous agreement with the treaty powers. The French representatives likewise had occasion to protest against the refusal of the Chinese authorities to visé a passport issued to a subject of Greece (Greek subjects being under the protection of the French diplomatic and consular representatives in China) by the French consul at Hankow.

Recently a similar understanding has arisen between the Russian and Chinese authorities at Kharbin in regard to a subject of Montenegro.

The Imperial Government considers this question to be one of those where solidarity between the treaty powers offers the only prospect of successful settlement. Quite independently of any political aims, and it is their desire to act in this matter in concert with the other powers. They would like, therefore, to ascertain whether the Government of the United States hold that it would be to the common interest to guarantee the rights of subjects of civilized powers not having treaties with China, and, if so, whether this Government would share the opinion of the Imperial Government in regard to the advisability of a collective action to be taken in this matter by the foreign representatives at Peking, such action to be taken by them after the establishment of a program, concerted among themselves, which would have to be previously submitted for approval to their respective Governments.

File No. 393.00/3.

Aide-mémoire to the Russian Embassy.

DEPARTMENT OF STATE,
Washington, October 11, 1910.

The question of the protection of the interests of foreigners, subjects or citizens of powers not having treaties with China, who might be sojourning or traveling in China, is one that has frequently come

¹ Russian Calendar. See Foreign Relations, 1909, p. 69.

before the Government of the United States for consideration. The position uniformly taken by the Federal Government has been that by consenting to lend its good offices in behalf of subjects of other nations, it could not assume to assimilate such subjects to citizens of the United States and to invest them with extraterritorial rights which they did not enjoy as subjects of the country of their allegiance. The American minister to China was informed in 1895 by the then Secretary of State, Mr. Gresham, that the consuls of the United States in China had never been invested with power to exercise jurisdiction over citizens or subjects of another nation, and that the Department of State has repeatedly so held in respect to citizens of Switzerland who had, for many years, been under the protection of ministers and consuls of the United States.

Moreover, the Supreme Court of the United States has held that the question of the jurisdiction of American consular courts in the Orient depends not merely upon international law and the provisions of the treaties, but also upon the statutory law of the United States which plainly provides for the exercise of such jurisdiction in criminal cases over American citizens only. In civil cases, also, while the statute is not so clear, the law officers of the Department of State are of the opinion that the jurisdiction is doubtful.

Consistently with this policy, which is determined by the limitations imposed by the Federal statutes, the American minister to China was instructed in July of last year,¹ relative to the proposal of the Chinese Government to issue passports to, and assume jurisdiction over nationals of countries which had no treaty relations with China who might desire to travel in the interior of that Empire, that the Department of State was not in a position to question the right of the Chinese Government in the premises, provided no interference was contemplated with the extraterritorial privileges of any persons, whatever their civil status, who owed allegiance to the United States, or who were entitled, by international law or by usage, to the protection of the Government of the United States, as foreign seamen on American ships, or as assistants or guards in legations and consulates, or as employees of American citizens in China.

The Department of State therefore regrets its inability to comply with the request presented by the Russian Embassy to the Department of State in the embassy's aide-mémoire of September 17 last; and, while appreciating the importance of concerted action in matters of common interest to the powers in China, it finds itself, for the reasons given above, under the necessity of refraining from participation in this present matter, so long as no action is taken or contemplated that would in any wise unfavorably affect American interests in China.

¹ See Foreign Relations, 1900, p. 69.

SALVADOR.

MESSAGE OF THE PRESIDENT OF SALVADOR TO THE NATIONAL LEGISLATIVE ASSEMBLY.

File No. 4598/108.

Minister Heimke to the Secretary of State.

AMERICAN LEGATION,
San Salvador, March 10, 1910.

SIR: Referring to my dispatch, No. 33,¹ of the 21st ultimo, reporting the inauguration of the sessions of the National Legislative Assembly of El Salvador, and forwarding three copies of the message delivered on that occasion by the President of the Republic, I have to transmit herewith, in duplicate, a translation of that message.

I have, etc.,

WILLIAM HEIMKE.

[Inclosure.]

President's Message—Extract.

SAN SALVADOR, *February 21, 1910.*

The international relations which the Government of El Salvador has cultivated with all the friendly Governments have been preserved on a footing of the most cordial fitness.

As a reflection of this cordiality of relations, the minister of the department will explain to you the different diplomatic conferences in which El Salvador has taken part and the international acts to which our representatives abroad have subscribed, as well as the honorable invitations which the Government has received to take part in other international congresses planned for the future.

Referring especially to the relations which we have preserved on a basis of the most strict and cordial fraternity with our sister Republics of Central America, I am glad to inform you that the bonds which unite them with us by our common origin happily continue undisturbed, deploring only the disturbance of order which has taken place in Nicaragua; but it is to be hoped that within a short time normal conditions will be reestablished in that sister Republic.

In compliance with one of the stipulations of the Washington treaties and desiring to bind closer the good friendship which has always united us with the sister Republic of Costa Rica, I appointed as chargé d'affaires before that Government Dr. Reyes Arrieta Rossi, which appointment was made on the 17th of last June. In July of the same year the Government of Costa Rica invited that of El Salvador to take part in the Fourth International Sanitary Congress, which invitation was accepted, Dr. Alfonso Quinones M. being appointed to assist at the congress referred to as delegate for this Republic.

The honorable legation of the Kingdom of Italy has been transferred to this capital for the purpose of arranging certain matters, of which I will give you an account in the proper report.

With the Government of the United States of America relations have been maintained unaltered, and on the 18th of October Mr. William Heimke was received in public audience in the character of envoy extraordinary and minister plenipotentiary. On the 3d of July of last year there took place in Washington the exchange of ratifications of the treaty of arbitration celebrated between El Salvador and the United States of America.

¹ Not printed.

With the other countries of the American Continent there has not happened during the year any event of importance, good relations being cultivated, as usual, with them all.

Likewise with the Governments of Europe that of El Salvador has maintained on the basis of the greatest harmony the relations which have existed for many years. The Treaty of Commerce celebrated with Germany was exchanged in Guatemala through the medium of our plenipotentiary, Dr. Francisco G. de Machon and his excellency Count Ulrich von Schwerin, envoy extraordinary and minister plenipotentiary of the German Empire in Central America.

The Government, desiring to bind closer the relations of friendship which it cultivates with the Government of the Kingdom of Italy, decided to accredit Dr. J. Gustavo Guerrero in the capacity of chargé d'affaires of El Salvador in that country, on the 21st of May of last year.

On the 8th of March the instrument of ratification of the conventions celebrated by the second peace conference in 1907 was remitted to the minister for foreign affairs at The Hague.

SIAM.

DEATH OF THE KING OF SIAM AND SUCCESSION TO THE THRONE OF KING MAHA VAJIRAVUDH.

File No. 892.001/1.

Chargé Tarler to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, October 23, 1910.

His Majesty the King of Siam died 12.45 this morning. His Royal Highness Crown Prince Vajiravudh has been proclaimed King of Siam. Have sent the message of condolence for the President to the minister for foreign affairs of Siam.

TARLER.

File No. 892.001/6.

The Siamese Minister to the Secretary of State.

SIAMESE LEGATION,
Gloucester, Mass., October 24, 1910.

SIR: Confirming my telegram to you of this morning, I have the deepest sorrow in informing you of the irreparable loss my country has sustained in the passing yesterday morning, at 12.45 after a short illness, of my august sovereign His Majesty King Chulalongkorn the First of Siam.

I have also, in accordance with the instructions of His Royal Highness Prince Devawongse Varoprakar, minister for foreign affairs, the honor to announce to you that His Royal Highness the Crown Prince has duly succeeded to the crown and has been proclaimed King with the title of Maha Vajiravudh.

Requesting you to be so good as to bring these announcements to the knowledge of the President of the United States.

I have, etc.,

AKHARAJ VARADHARA.

File No. 892.001/4.

The Siamese Minister to the Secretary of State.

[Telegram.]

SIAMESE LEGATION,
Gloucester, Mass., October 24, 1910.

In deepest grief I beg to inform you that to the irreparable loss to my country His Majesty the King of Siam, my august sovereign, passed away yesterday morning at 12.45.

I also have the honor to announce to you that His Royal Highness the Crown Prince has duly succeeded to the crown and has been proclaimed King Maha Vajiravudh.

AKHARAJ VARADHARA.

File No. 892.001/4.

President Taft to the King of Siam.

[Telegram.]

THE WHITE HOUSE,
Washington, October 25, 1910.

I beg to offer to Your Majesty the expression of the deep sympathy of the Government and people of the United States in the loss sustained by Siam in the death of His Late Majesty King Chulalongkorn, and my good wishes for the prosperity and happiness of the Siamese people under your reign.

WM. H. TAFT.

File No. 892.001/4.

The Acting Secretary of State to Chargé Tarler.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 25, 1910.

The President has telegraphed his sympathy to His Majesty King Maha Vajiravudh. Express to minister of foreign affairs sympathy of the Secretary of State.

ADEE.

File No. 892.001/4.

The Secretary of State to the Siamese Minister.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 25, 1910.

I have the honor to acknowledge with deep regret the receipt of your telegram of yesterday's date conveying the sad intelligence of the death of His Majesty King Chulalongkorn on October 23.

The President, to whom the information was duly conveyed, has cabled his condolence to King Maha Vajiravudh and I take this occasion to express to you the deep sympathy of the Government and people of the United States and my own sincere condolence in the national loss sustained by your country.

I would be pleased if you informed the department as to the date on which the funeral services will take place.

(For MR. KNOX.)
ALVEY A. ADEE.

File No. 892.001/7.

The Siamese Minister to the Secretary of State.

SIAMESE LEGATION,
Gloucester, Mass., October 26, 1910.

SIR: I have the honor to acknowledge the receipt of your telegram of the 25th instant, transmitted by the honorable Alvey A. Adeë, in which you are so good as to inform me that the sad intelligence of the death of my late sovereign has been conveyed to the President,

who has cabled his condolence to King Maha Vajiravudh, and to express the sympathy of the Government and people of the United States, as well as your own regret, at the national loss sustained by my country.

I now hasten to offer to you my sincere gratitude for your most kind expressions of condolence, and to assure you that His Majesty the King, the Government, and the people of Siam will duly and warmly appreciate the friendly sympathy so generously extended to them by the President, the Government, and the people of the United States in their great bereavement.

Permit me to thank you also for your inquiry as to the date of the funeral.

In this connection I beg to explain that owing to the custom that the body of a Siamese monarch is not cremated until a year after death, and to the obstacles in the way of arranging a memorial service in Washington according to the rites of the Buddhist religion, I am constrained to forego the idea of a public service as impracticable under the circumstances.

I have, etc.,

AKHARAJ VARADHARA.

File No. 892.001/17.

Chargé Tarler to the Secretary of State.

No. 666.]

AMERICAN LEGATION,
Bangkok, October 27, 1910.

SIR: In confirmation of my telegram of even date I have the honor to state that I have been informed by the general adviser that the ceremony of accession will begin on November 8, 1910, and that His Majesty will be crowned on the 11th instant of the same month. The coronation festivity, however, will be postponed until after the cremation of His Late Majesty, which will probably take place next year.

The style and title of His Majesty, who has just ascended the throne will be: Somdetch Phra Paramendr Maha Vajiravudh, Phra Mongut Klao, King of Siam.

The style and title of His Late Majesty was: Somdetch Phra Paramindr Maha Chulalonkorn, Phra Chula Chom Klao, King of Siam.

The style and title of His Late Majesty's predecessor was: Somdetch Phra Paramendr Maha Mongut, Phra Chom Klao, King of Siam.

In each instance the first title is the personal name of the sovereign, and the second is the name of the reign.

I am informed that there is a difference between the names "Paramendr" and "Paramindr."

I have, etc.,

G. CORNELL TARLER.

File No. 892.001/19.

Chargé Tarler to the Secretary of State.

No. 669.]

AMERICAN LEGATION,
Bangkok, October 31, 1910.

SIR: I have the honor to inform you that His Royal Highness Prince Krom Luang Devawongse Varoprakar, His Siamese Majesty's

minister for foreign affairs, has been commanded, in the name and on behalf of the Royal Family and His Majesty's Government, to tender President Taft and the American Government and people their appreciation of their kind and sympathetic expression of condolence in their hour of deepest sorrow for the great and irreparable loss which they have sustained.

I have, etc.,

G. CORNELL TARLER.

File No. 892.001/9.

The Acting Secretary of State to Chargé Tarler.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 4, 1910.

You will attend ceremony as the special representative of the President. I have so cabled minister of foreign affairs.

ADEE.

File No. 892.001/9.

The Acting Secretary of State to the Minister for Foreign Affairs of Siam.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 4, 1910.

I have the honor to inform Your Royal Highness that the honorable George Cornell Tarler has been designated to attend the coronation of His Majesty the King of Siam as special representative of the President of the United States, and to request that he may be cordially received in such capacity.

ADEE.

File No. 892.001/10.

The Minister of Foreign Affairs of Siam to the Secretary of State.

[Telegram.]

BANGKOK, November 5, 1910.

I have the honor to acknowledge receipt of your telegram of 5th instant. It gives me pleasure to inform you that Hon. George Cornell Tarler will be cordially received as special representative of the President of the United States at His Majesty's coronation.

DEVAWONGES.

File No. 892.001/12.

Chargé Tarler to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bangkok, November 14, 1910.

His Majesty the King of Siam has been crowned. I was received in private audience.

TARLER.

File No. 892.151/4.

OPEN TENDERS FOR GOVERNMENT WORK.

Chargé Tarler to the Secretary of State.

[Extract.]

No. 565.]

AMERICAN LEGATION,
Bangkok, February 24, 1910.

SIR: I have the honor to report, in continuation of Mr. King's dispatches, Nos. 538 and 539,¹ dated November 11 and November 18, 1909, respectively, that, having pursued the investigation suggested by the tenor of his communications, by interviewing such of my colleagues as I considered unbiased, and discussing the subject matter thereof with engineers and business men in Bangkok whose views were confirmed by correspondence sent by American firms and recently received by me, I am firmly convinced that the so-called "open tenders" for Government supply work are such in name only, and that the specifications and conditions imposed are discriminatory against American manufactures and in favor of those Governments which have advisers in the departments which formulate the said specifications and ultimately award the final contracts, and that the present system, therefore, as countenanced by the Siamese Government is absolutely devoid of any suggestion of equal commercial opportunity for all nations—a principle which must obtain here if American commercial interests expect to gain a foothold in Siam.

In the matter of tenders for the waterworks supplies for Bangkok, recently called for, it appears that all American firms consider the specifications absolutely prohibitory. One American firm refused to make quotations for the pipes specified, and referred the matter to their English connections. Other firms informed their agents here that they can not bid on account of the prohibitory restrictions contained in the specifications. The crux of the matter is this: The specifications call for a certain style of rubber joint or gasket in the pipes, which, so far as is known, is manufactured only by a certain foreign firm. I am informed that this foundry is the only one that makes this specific joint, and when it is remembered that the controlling engineers and advisers in this department are of the same nationality it would seem natural to infer that favoritism is being shown to the manufacturers in this regard.

One minister read to me a protest addressed by him to the foreign office charging favoritism, and concluding with the request that the tenders be made open in all sincerity and without any encumbering conditions or restrictive prohibitions. He asked me to take similar action. As the bids are to be opened on April 15, and it will be impossible for me to have the department's instructions before that time, and feeling that at the present time strenuous action will not be fruitful of desirable results, I shall, at my next interview with Prince Devawongse at the foreign office, take up the matter very informally, and, should the opportunity present itself, I shall express the view that my Government would learn with great satisfaction that in all tenders for Government contract work American manu-

¹ Not printed.

facturers were accorded equal opportunity with those of other nations. And for my future guidance I would be pleased to have the department instruct me as to the course to be pursued in making formal or informal representations to the foreign office, whether in each case it is desired that I await specific instructions, etc.

I have, etc.,

G. CORNELL TARLER.

File No. 22772/4.

The Secretary of State to Chargé Tarler.

No. 205.]

DEPARTMENT OF STATE,
Washington, April 6, 1910.

SIR: The department acknowledges the receipt of your confidential dispatch, No. 565, of February 24, 1910, on the subject of the apparent discrimination against American manufactures in so-called "open tenders" for Government work; also of Mr. King's No. 539, of November 8, 1909, inclosing copies of specifications, tender, and contract for the supplying of cast-iron pipes and accessories in the Bangkok waterworks, as well as a copy of a letter from a local firm, dated the 17th idem, on what are termed "specials."

The department has carefully noted what you state as a firm conviction that the so-called "open tenders" for Government supply work are such in name only; that the specifications and conditions imposed are discriminatory against American manufactures and in favor of those countries which have advisers in the departments which formulate the said specifications and ultimately award the final contracts; and that the present system, therefore, as countenanced by the Siamese Government, defeats the practical application of the principle of equal commercial opportunity for all nations—a principle which you state must obtain if American commercial interests expect to gain a foothold in Siam.

In this connection the department had already noted Mr. King's statement with reference to the opinion reported as generally prevailing at Bangkok that tenders for the waterworks supplies for that city, drawn up by a foreign adviser in the public works department, have been specifically shaped for a local firm of the same foreign nationality. He also pointed out that for political reasons advisers of different nationalities, loaned by their Governments, have been placed in the several departments, and that it is natural that such advisers in purchasing supplies for their respective departments should favor the market with which they are best acquainted and for which they are expected by their Governments to work. These views are now confirmed by you in the dispatch under acknowledgment.

It would appear that as a result of this policy of favoritism the commerce of Siam, though nominally a country granting equal and impartial privileges for trade, is closed in great part to the markets of the United States, and American manufacturers and exporters interested in the present and future outlook for American trade in that country may well be apprehensive. Moreover, such a situation seems to this Government to indicate a disregard of American treaty rights.

Article X of the treaty of 1856 between the United States and Siam provides:

The American Government and its citizens will be allowed free and equal participation in any privileges that may have been or may hereafter be granted by the Siamese Government, to the Government, citizens, or subjects of any other nation.

This Government holds that this article has application not only to free and equal privileges in the commerce conducted through the seaports of Siam, but equally to a fair field and no favor in competing for the trade of the Siamese Government as it arises in the several departments. The right and privilege of fair and open competition for the trade of Siam in all its departments should be granted to all nations, and a recognition of this principle carried into practice would furnish to the Siamese Government the right and privilege in turn to buy in the market affording the best advantage. Such a liberal interpretation guaranteeing open tender in all Government contracts is but the logical and necessary corollary of the open-door policy.

It is believed that a declaration of principle to the above effect would upon becoming operative open the way for a larger and more substantial progress in Siam and would operate powerfully to enhance her own commercial and industrial interests.

The traditional friendship between the United States and Siam, which has existed unbroken from the commencement of diplomatic intercourse between the two countries, is without doubt destined to become more intimate in the future, since the possession of the Philippine Islands by the United States has brought the two countries into a relationship of neighbors, and it is believed by this Government that the cultivation of sentiments of neighborly good will would be no less agreeable to Siam than to the United States. The position of this Government on the question of the open door and equal opportunity and the extent of our commerce and other interests, both actual and prospective, warrant our taking the positive stand outlined above in favor of open tender on all Government contracts in Siam, and this Government would learn with great satisfaction of the willingness of the Siamese Government to assure free and impartial conditions of tender for supplies for the various Government departments.

You may present formally to the Siamese foreign office the views of this Government as above outlined.

I am,

P. C. KNOX.

ENFORCEMENT OF LOCAL LAWS BY UNITED STATES CONSULAR COURTS IN EXTRATERRITORIAL COUNTRIES.

Chargé Tarler to the Secretary of State.

No. 608.]

AMERICAN LEGATION,
Bangkok, May 23, 1910.

SIR: I have the honor to inclose herewith in duplicate copy¹ of a translation of the supplementary law to the law on navigation in Siamese waters (R. S. 124), which will be put into force on August 1 next. I have been requested to make the same binding on all American citizens in Siam.

I have, etc.,

G. CORNELL TARLER.

¹ Not printed.

File No. 25157/-.

*The Acting Secretary of State to Chargé Tarler.*DEPARTMENT OF STATE,
Washington, July 8, 1910.

SIR: The department is in receipt of your dispatch, No. 608 of May 23, 1910, inclosing copy of the supplementary law to the law on navigation in Siamese waters, which will become operative on August 1, 1910. You state that the legation has been requested to make the same binding on American citizens in Siam.

The department sees no objection to the compliance on the part of the legation with this request of the Siamese Government.

I am, etc.,

HUNTINGTON WILSON.

File No. 892.89.

The Acting Secretary of State to Chargé Tarler.

No. 219.]

DEPARTMENT OF STATE,
Washington, November 9, 1910.

SIR: Referring to your dispatch, No. 608, of May 23, 1910, inclosing a copy of the supplementary law to the law on navigation in Siamese waters, and stating that the legation has been requested to make the law binding on American citizens in Siam, you are informed that although the department authorized you in its instruction of May 9, 1910,¹ to comply with the request of the foreign office to enforce the automobile act for the year 128, this is not to be taken as indication that it desires to formulate and promulgate laws for American citizens in extraterritorial countries.

Where the laws extended by treaties and acts of Congress to extraterritorial countries fail to furnish sufficient and appropriate remedies Congress has provided a method of supplying such deficiencies by decrees and regulations which shall have the force of law until annulled or modified by act of Congress (R. S., secs. 4030 to 4130). The functions of the Secretary of State in countries in which there is a minister is limited in this respect merely to transmitting the regulations to Congress for revision. The department, however, may comment and doubtless even criticise any such regulations and lay before Congress such comments or criticism, in connection with its transmission of the regulation.

In view of this condition of the law the department can merely state that it sees no objection to extending the supplementary law to the law on navigation in Siamese waters to American citizens residing in Siam, reserving, of course, all treaty rights.

As by statute our consular "jurisdiction [in those countries where the United States enjoys extraterritorial rights by treaties] in both criminal and civil matters, shall in all cases be exercised and enforced in conformity with the laws of the United States, which are hereby so far as necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all

¹ Not printed.

citizens of the United States in those countries * * *; but in all cases where such laws are not adapted to the object or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and other in those countries;" and if they fail to "furnish appropriate and sufficient remedies the ministers in those countries, respectively, shall, by decrees and regulations, * * * supply such defects and deficiencies," it is difficult to see how the consular courts can enforce local laws and regulations by assuming jurisdiction of offenses against the same until such local laws and regulations have, in the manner authorized by Congress, been made a part of that body of American law which has been extended to extraterritorial countries. In the opinion of the department it seems that this may be done where necessary by incorporating the local laws or regulations into a decree or regulation of the minister or other authorized agent which shall be promulgated by him in the manner provided in the Revised Statutes for the issuance and promulgation of regulations of ministers and other authorized agents. In this connection your attention is called to Revised Statutes, section 4101, regarding punishment by fine and imprisonment, and to the case of *Sexton v. the United States in the United States court for China*, concerning the validity of regulations.

I am, etc.,

ALVEY A. ADEE.

SPAIN.

INTERPRETATION OF ARTICLE 23 OF THE TREATY OF FRIENDSHIP AND GENERAL RELATIONS OF JULY 3, 1902, BETWEEN THE UNITED STATES AND SPAIN.

File No. 711.5211.

The Spanish Minister to the Secretary of State.

SPANISH LEGATION,
Washington, November 29, 1910.

MR. SECRETARY: In having the honor to place in your hands a brief statement of certain facts connected with the murder of His Majesty's subject Juan Bautista Sagasti, late steward of the Spanish steamship *Viviana*, committed at Pensacola, Fla., in the year 1907, I beg leave to call your excellency's attention to the course taken in that case by the local authorities of that city, which seem to have acted arbitrarily and in my opinion openly infringed the test of the treaty of friendship and general relations of July 3, 1902, concluded between the United States and Spain.

It appears from the information at hand that Pantaleon Basterrechea, a Spaniard and cook of the *Viviana*, killed the steward, Juan Bautista Sagasti, both being then on board the *Viviana*, to whose crew they belonged, the ship being anchored in the said port of Pensacola. The facts referred to took place April 27, 1907.

On their being brought to his knowledge by a report of the captain of the ship, the vice consul of Spain at that place immediately took appropriate action and issued the provisional order, which is literally as follows:

The aggressor, Pantaleon Basterrechea, being locked up in the first officer's room, was, on the request of the then examining magistrate, Mr. James Sandrum, and for greater safety, delivered to him and taken from the ship by a constable.

But when said consular officer asked to have the said accused returned to be placed aboard and taken to Spain the said magistrate replied that the trial had taken place before 12 American citizens, who had returned a verdict of not guilty on account of the homicide committed by Basterrechea having been declared justifiable, and that Basterrechea had been released.

Inasmuch as our vice consul had delivered the accused to the authorities of the United States for custody and return only, with a view to greater safety at that time and in compliance with the magistrate's request, it is clear and evident that the failure to return him was, on the part of the authorities of the United States, a manifest misinterpretation of the provision of the above-mentioned treaty.

I have therefore no doubt that your excellency, ever animated by the most devoted sentiments of equity and justice, will enable me to return to my Government, which has instructed me to take this step, a satisfactory answer that will permit to hope that here-

after the provisions of the treaty of friendship and general relations between Spain and the United States, and, as regards the case under consideration and others of the same character that may arise, article 23 of the said treaty will be strictly observed by the Federal, State, or municipal authorities of the United States.

I avail, etc.,

JUAN RIANO.

The Secretary of State to the Spanish Minister.

No. 22.]

DEPARTMENT OF STATE,
Washington, December 7, 1910.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, in which you complain of the alleged arbitrary action of the local authorities in Pensacola, Fla., in 1907, in connection with the killing of Juan Bautista Sagasti, a steward on the Spanish steamship *Viviana*, which, in your opinion, openly infringed the text of the treaty of friendship and general relations of July 3, 1902, between the United States and Spain.

You state that it appears that Pantaleon Basterrechea, a Spaniard and cook on the *Viviana*, killed the steward, Sagasti, on April 27, 1907, while the ship was anchored in the port of Pensacola, both being on board the ship at the time; that the Spanish vice consul, upon being informed of the occurrence by the captain, issued the following order:

The aggressor, Pantaleon Basterrechea, being locked up in the first officer's room, was, on the request of the examining magistrate, Mr. James Landrum, and for greater safety, delivered to him and taken from the ship by a constable.

That when the consular officer asked to have the accused returned to be placed on board and taken to Spain, the magistrate replied that the trial had taken place before 12 American citizens who had returned a verdict of "not guilty" on account of the homicide by Pantaleon Basterrechea having been declared justifiable, and that Basterrechea had been released.

You also state that the vice consul had delivered the accused to the authorities of the United States for custody and return only with a view to greater safety at that time and in compliance with the magistrate's request. You express the view that it is clear that the failure to return him was a manifest misinterpretation of the provisions of the treaty on the part of the authorities of the United States. You, therefore, submit the matter to this department, by instruction of your Government, in order that you may assure your Government that hereafter the provisions of the treaty, particularly article 23 thereof, will be strictly observed by the Federal, State, or municipal authorities of the United States in cases of the same character that may arise.

The matter has received careful attention. A consideration of the facts of the case, as stated in your note, shows, however, that the action of the local authorities at Pensacola constituted no infringement of the provisions of the treaty. The treaty (art. 23) provides that—

Consuls general, consuls, vice consuls, and consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take

cognizance of differences which may arise, either at sea or in port, between the captains, officers, and crews without exception, particularly in reference to the adjustment of wages and the execution of contracts. In case any disorder should happen on board of vessels of either party in the territorial waters of the other, neither the Federal, State, nor municipal authorities in the United States, nor the authorities or courts in Spain, shall, on any pretext, interfere, except when the said disorders are of such a nature as to cause or be likely to cause a breach of the peace or serious trouble in the port or on shore, or when in such trouble or breach of the peace a person or persons shall be implicated not forming a part of the crew. In any other case said Federal, State, or municipal authorities in the United States, or authorities or courts in Spain, shall not interfere, but shall render forcible aid to consular officers, when they may ask it, to search for, arrest, and imprison all persons composing the crew whom they may deem it necessary to confine. Those persons shall be arrested at the sole request of the consul addressed in writing to either the Federal, State, or municipal authorities in the United States, or the authorities or courts in Spain, and supported by an official extract from the register of the ship or the list of the crew, and the prisoners shall be held during the whole time of their stay in the port at the disposal of the consular officers. Their release shall be granted at the mere request of such officers made in writing. The expenses of the arrest and detention of those persons shall be paid by the consular officers.

The first sentence of this article confers upon consular officers authority to cause order to be maintained on board the vessel, and to decide disputes arising between officers and crew, either at sea or in port. The treaty further provides, however, that the local authorities may interfere when the disorder happening on board is of such a nature as to cause or be likely to cause a breach of the peace or serious trouble in the port or on shore, or when in such trouble or breach of the peace a person or persons shall be implicated not forming a part of the crew. The treaty then goes on to provide that "in any other case"—that is, in any other case than (1) that in which the disorder is of such a character as to cause, or be likely to cause, a breach of the peace or serious trouble, or (2) when a person or persons shall be implicated not forming a part of the crew—the local authorities shall render forcible aid to consular officers when they may ask it to search for, arrest, and imprison all persons composing the crew whom they may deem it necessary to confine, and hold them at the disposal of the consular officer.

By these provisions, which are substantially the same as those contained in a number of the treaties of the United States, each of the contracting parties has granted to the other such local jurisdiction within its own dominion as may be necessary to maintain order on board a merchant vessel, but has reserved to itself the right to interfere if the disorder on board is of a nature to disturb the public peace.

The question to be determined is whether the act done in the present case was "a disorder of a nature to cause, or be likely to cause, a breach of the peace or serious trouble in the port or on shore." It may be difficult, in some cases, to determine whether a particular disorder is one which disturbs only the peace of the ship, or the public peace, but there would appear to be no question that the killing of one human being by another is "a disorder of such a nature as to cause, or be likely to cause, a breach of the peace or serious trouble in the port or on shore."

In a case arising a few years ago the facts were that one of the crew of the Belgian steamship *Noordland* shot and killed another member of the crew of the same ship while it was anchored in the port of Jersey City, N. J. The aggressor was arrested by the local police authorities and committed by a police magistrate to jail to await trial.

The Belgian consul applied to the United States circuit court for the district of New Jersey for the release of the prisoner upon a writ of habeas corpus, and his delivery to the consul to be dealt with according to the law of Belgium. It was claimed by the consul that by the law of nations and the provisions of the consular treaty between the United States and Belgium the offense was solely cognizable by the authority of the laws of Belgium. The provisions of the Belgian treaty were substantially the same as those of article 23 of the treaty between the United States and Spain, the former reserving the right of interference by the local authorities when the disorder is "of such a nature as to disturb tranquillity and public order on shore or in the port," while the latter authorizes such interference when the disorder is "of such a nature as to cause, or be likely to cause, a breach of the peace or serious trouble in the port or on shore."

The court refused to deliver the prisoner to the consul and remanded him to the custody of the jailer. To reverse this decision an appeal was taken to the Supreme Court of the United States. That court affirmed the judgment of the court below, holding that, unless exempted by treaty, a foreign merchant vessel entering a port of the United States for purposes of trade is subject to the local law; that the local courts may punish for crimes committed upon the vessel within the port by one foreigner upon another foreigner; and that the treaty between Belgium and the United States conferring power upon Belgian consuls in the United States to take cognizance of differences between captains, officers, and crews of Belgian merchant vessels in ports of the United States, and providing that the local authorities shall not interfere except when a disorder arises of such a nature as to disturb tranquillity or public order on shore or in port, did not deprive the local authorities of jurisdiction over the offense committed in the case before the court.

In determining the question whether the thing done on board the vessel was of a nature to disturb the public peace of New Jersey the court said:

If the thing done, "the disorder," as it is called in the treaty, is of a character to affect those on shore or in the port when it becomes known, the fact that only those on the ship saw it when it was done is a matter of no moment. Those who are not on the vessel pay no special attention to the more disputes or quarrels of the seamen while on board, whether they occur under deck or above. Neither do they as a rule care for anything done on board which relates only to the discipline of the ship or to the preservation of order and authority. Not so, however, with crimes which from their gravity awaken a public interest as soon as they become known, and especially those of a character which every civilized nation considers itself bound to provide a severe punishment for when committed within its own jurisdiction. In such cases inquiry is certain to be instituted at once to ascertain how or why the thing was done, and the popular excitement rises or falls as the news spreads and the facts become known. It is not alone the publicity of the act, or the noise and clamor which attends it, that fixes the nature of the crime, but the act itself. If that is of a character to awaken public interest when it becomes known, it is a "disorder," the nature of which is to affect the community at large, and consequently to invoke the power of the local government whose people have been disturbed by what was done. The very nature of such an act is to disturb the quiet of a peaceful community and to create, in the language of the treaty, a "disorder" which will "disturb tranquillity and public order on shore or in the port." The principle which governs the whole matter is this: Disorders which disturb only the peace of the ship or those on board are to be dealt with exclusively by the sovereignty of the home of the ship, but those which disturb the public peace may be suppressed, and, if need be, the offenders punished by the proper authorities of the local jurisdiction. It may not be easy at

all times to determine to which of the two jurisdictions a particular act of disorder belongs. Much will undoubtedly depend on the attending circumstances of the particular case, but all must concede that felonious homicide is a subject for the local jurisdiction, and that if the proper authorities are proceeding with the case in a regular way, the consul has no right to interfere to prevent it. (U. S. Rep. 1886, vol. 120, pp. 17-18.)

I feel confident that further consideration of the matter will convince your Government that this case was one coming clearly within the cognizance of the local authorities, and that there was no infringement of the treaty provisions. I need not assure you of the desire of this Government that the provisions of the treaty between the two Governments shall at all times be strictly observed by both Federal and State authorities.

Accept, etc.,

P. C. KNOX.

MARRIAGE OF AMERICAN CITIZENS ABROAD.

File No. 8473/25.

The Secretary of State to Minister Ide.

No. 53.]

DEPARTMENT OF STATE,
Washington, February 24, 1910.

SIR: In reply to your No. 138, of the 2d instant,¹ the department desires to advise you that consular and diplomatic officers are forbidden by the regulations to perform marriage ceremonies. Paragraph 177 of the diplomatic regulations states that the laws of the United States do not confer on diplomatic officers any power to celebrate marriage, to act as official witnesses of the ceremony of marriage, or to grant certificates of marriage. The statutory provisions relating to the celebration abroad of marriages of citizens of the United States refer only to consuls.

Paragraph 417 of the consular regulations states that a consular officer has no power to celebrate marriages in a Christian country between citizens of the United States unless specifically authorized by the laws of the country to so do. In non-Christian countries his authority to perform this rite is not sufficiently well established and defined in the jurisprudence of the United States to justify action upon it. "It is deemed safer to forbid consular officers, and they are hereby forbidden to solemnize marriages in any case," are the exact words.

Consular officers are, however, permitted to act as witnesses, and the United States statutes provide that a marriage in the presence of a consular officer "between persons who would be authorized to marry if residing in the District of Columbia, shall be valid to all intents and purposes, and shall have the same effect as if solemnized within the United States." In view, however, of the exclusive authority of the States in such matters it is thought that this statute prescribing the legal effect of such marriages would probably be operative only in the District of Columbia and the Territories.

In answering inquiries from persons in this country desirous of contracting marriage abroad, the department usually informs such

¹ Not printed.

inquirers that the question of the form of marriages and the validity in any particular country is one on which neither the department nor its diplomatic and consular representatives are legally competent to give authoritative advice.

A copy of a pamphlet which has been issued by the department upon the subject is inclosed.

I am, etc.,

(For Mr. Knox.)
HUNTINGTON WILSON.

TURKEY.

AMERICAN RELIGIOUS, CHARITABLE, AND EDUCATIONAL INSTITUTIONS IN TURKEY.

Ambassador Straus to the Secretary of State.

[Extract.]

No. 173.]

AMERICAN EMBASSY,
Constantinople, May 16, 1910.

SIR: In my dispatch No. 141, of April 12, last,¹ I gave you a brief outline of the status of the negotiations respecting American educational and missionary institutions, referring to the obstacles interposed by the Ottoman Government in respect to taxation and the correction of the register of the land titles.

In 1907 the embassy, under the authority of the department, agreed to the increase of the Ottoman customs dues from 8 per cent to 11 per cent; at the same time an understanding was arrived at between my predecessor, Mr. Leishman, and the minister for foreign affairs "reaffirming the imperial decree issued in 1904 recognizing the legal standing of existing American religious, educational, and charitable institutions established in the Ottoman Empire, as indicated in the list filed with the Sublime Porte in February, 1903."² It was further understood that the Ottoman Government would consent to the correction of the registers of titles of properties owned and occupied by such institutions, namely, the correction of the registers from the name of the individual holding such property in trust to that of the institution or corporation for which such property was so held; and, further, that such institutions or corporations should enjoy all the privileges, exemptions, immunities, and rights enjoyed by similar religious, educational, and charitable institutions of the most-favored nation.

Under and by virtue of this understanding, upon the presentation of the title deeds, the register of some 30 or more of these institutions was corrected. Shortly after my arrival here in September last, I discovered that the Porte was not carrying out its agreement as understood by the embassy, but was raising various obstacles and legal quibbles to the making of the transfers.

The American institutions above referred to are located in about 140 different localities throughout the Empire, and in many of these localities there are three or four different institutions, such as schools, churches, orphanages, and hospitals. The objections to the transfer come under two specific heads. In three of the cases the objection is made that the property is recorded in the name of a Turkish subject; in the remainder of the cases the objection is made that the real owners, such as the American Board of Commissioners for For-

¹ Not printed.

² Foreign Relations, 1907, p. 1058.

eign Missions and the American Presbyterian Board, etc., are corporations, and that in order that the transfer of real property may be made to such bodies, they must comply with and come under the Ottoman law of association of August (1325), 1909.

I carefully examined this law and have conferred with the representatives of the missionaries here, and they agree with me that it would be most unwise to consent to come under the provisions of this law, as under this law the Ottoman authorities, civil and judicial, could without much stretch of authority practically impede, if not arrest, the work of these various American institutions. For your fuller information I append a translation of the "law on associations."¹

The dragomans of the embassy since May, 1907, and before then, have on repeated occasions discussed the various phases of the subject with the legal advisers of the Porte. In April last I had a careful discussion with the minister for foreign affairs and plainly showed my impatience with the objections that had been raised as being contrary to the definite understanding between the Porte and the embassy to which I have referred. Following that conference—namely, on the 16th of April last—I addressed a letter to the minister for foreign affairs, accompanied by a memorandum of the various cases that were presented for transfer and which had been held up for one reason or another. For the information of the department I inclose a copy of said letter with the accompanying memorandum.

I have had conferences with several of my colleagues who are equally interested in this subject and who have made application for the correction of the registers of real property of their respective religious, educational, and charitable institutions—namely, with the French, British, Italian, and Austrian ambassadors. Up to the present time they have not been as successful as we have been in the number of transfers that have been perfected. They all have encountered the same obstacles and agree with me that it would be impractical and unwise to consent to come under the law of associations. In fact all of the foreign powers represented here have encountered the same obstacles, and in April last sent a practically identical note to the Porte, which I did also, protesting against the application of the said law of associations to foreign corporations. A copy of my note of April 26th I inclose herewith for your fuller information.

In your instruction No. 84, of March 17¹ last, you instruct me to bring the matter of the land purchased in Jerusalem by the Archeological Institute of America to be registered in the corporate name of the institute, again to the attention of the Turkish minister for foreign affairs. This I did both specifically and in connection with the general subject, and this is embraced in the memorandum attached to my letter of April 16, above referred to.

On the 11th instant I discussed the subject matter affecting all these institutions with the grand vizier, and stated in most emphatic terms my objections to the law of associations as being contrary not only to the acquired rights of the institutions which have for many years been recognized, but pointed out to him section by section the practical inapplicability of such a law to such associations and cor-

¹ Not printed.

porations to which the American religious, charitable, and educational institutions belong. The grand vizier finally agreed with me that the law was inapplicable to such foreign corporations, and that as the legal existence of these institutions had been recognized by the Ottoman Government the objections that had been raised to the correcting of the registers should not be made to apply to said institutions. He promised me that the whole subject would within a few days be brought before the council of ministers, and further stated that he felt convinced that the council would agree with him that the correction of the registers of the institutions referred to should be made, and that the said law on associations could not apply to institutions that have already been recognized.

I have not heretofore troubled you with an account of the many difficult and intricate negotiations that this subject has entailed. I shall continue pressing the matter until these long-spending and troublesome questions affecting all American institutions are brought to a satisfactory conclusion.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure—Translation.]

Ambassador Straus to the Minister for Foreign Affairs.

AMERICAN EMBASSY,
Constantinople, April 16, 1910.

DEAR EXCELLENCY: Referring to our conference on Wednesday last, the 13th instant, in regard to the many obstructions that the embassy has encountered in respect to the exemption from taxes and the correction of the registers of the American religious, charitable, and educational institutions, I herewith beg to submit to you a brief memorandum of these cases¹ in accordance with your suggestion.

Your excellency will recall that in 1904 and 1907 a distinct agreement was reached in regard to these institutions between the Sublime Porte and this embassy, it being understood that no tax should be charged against the property of such institutions, of which an official list was filed with the Porte, beginning with March, 1903, in accordance with the principle of equality of treatment which was granted to the French and others; after which my Government consented, without objection, to the increase of custom dues from 8 to 11 per cent.

I trust your excellency will give this matter your personal attention, and will direct that the registers of all the institutions referred to be corrected, and directions be given to the provincial authorities that no tax is to be charged against them from March, 1903.

I desire further to add that for a year or more after the above-mentioned agreement was arrived at the register of a number of these institutions was corrected; and it is only since then that there has been a persistent effort not to observe said agreement, by reason of the various objections which are referred to in the memorandum.

I take, etc.,

OSCAR S. STRAUS.

File No. 367116/93.

The Acting Secretary of State to Ambassador Straus.

No. 116.]

DEPARTMENT OF STATE,
Washington, June 30, 1910.

SIR: Your dispatch, No. 173, of the 16th ultimo, concerning the status of the negotiations respecting American educational and

missionary institutions in the Ottoman Empire, has been received and read with attention.

The difficulties with which you are meeting in your efforts to press the negotiations to a successful conclusion are fully understood, and your action in the matter has the approval of the department.

I am, etc.,

HUNTINGTON WILSON.

File No. 367.116/94.

Ambassador Straus to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Pera, September 1, 1910.

Mr. Straus states that he is gratified to inform the department that he has secured a favorable decision from the Porte freeing all officially recognized religious, charitable, and educational institutions from the restrictive law governing associations; and that he has also obtained a favorable decision for transferring property and constructing buildings for the girls' college at Constantinople. Mr. Straus adds that he has obtained favorable action concerning a general firman for Beirut College and irade for constructing Robert College buildings.

URUGUAY AND PARAGUAY.

MESSAGE OF THE PRESIDENT OF URUGUAY TO THE URUGUAYAN CONGRESS.

Chargé Magruder to the Secretary of State.

No. 556.]

AMERICAN LEGATION,
Montevideo, March 8, 1910.

SIR: I have the honor to inclose herewith the message of President Williman, delivered at the opening of the third session of the Twenty-third Congress.

I have, etc.,

ALEXANDER R. MAGRUDER.

[Inclosure—Translation.]

Message of the President of Uruguay.

EXTRACT.

The relations of the Republic with the other States continue on a basis of the most cordial friendship. The attentions received by us from various nations are most flattering, for they demonstrate the respect and consideration our country has merited.

The members of our diplomatic and consular corps have been principally instrumental in bringing about the consideration we now enjoy, for they have worked with zeal for the welfare and future of the Republic under the guidance of the foreign office. But, on the other hand, the worthy diplomatic and consular representatives accredited here, who, by their reports on the various conditions of our national life, have disseminated the fact of our progress and riches, have proven a most important factor in improving our relations with the outside world.

In the message which I had the honor of addressing to your honorable body on February 15 of last year I expressed the conviction that the two international questions which have so greatly occupied the attention of the general public were on a good road. Now it is the greatest possible pleasure for me to communicate their happy termination. I refer to the codominion, with the United States of Brazil, of Lake Merim and Yaguaron River, and the dispute with the Argentine Government over matters known to your honorable body.

On December 30 last a treaty of rectification of boundaries was signed in Rio Janeiro between the plenipotentiaries, His Excellency Baron de Rio Branco, Brazilian minister for foreign affairs, and the envoy extraordinary and minister plenipotentiary of our country, Rufino T. Dominguez, in which the rights of Uruguay to sovereignty over the waters of Lake Merim and Yaguaron River were declared existent. Thus becomes satisfied an old-time national desire carried out, in a disinterested manner, by the Brazilian statesman, with all respect for justice and confraternity, as has been announced by the eminent statesman who directs the foreign affairs of that country.

On February 5 last there was signed in Montevideo, between the Argentine plenipotentiary, Dr. Roque Saenz Pena, and the oriental plenipotentiary, Dr. Gonzalo Ramirez, who were designated for the purpose, a protocol, which, by the elimination of former differences, reestablishes the cordiality of relations of the two countries.

The brotherly manner in which our neighbors of the Plata cemented the traditional friendship of the two peoples occasioned great rejoicing in political, social, and commercial circles and in the press, and by public manifestation the Argentines have received the best possible testimony of our affectionate sympathy.

It is especially pleasing to me to inform your honorable body that the Governments of the United States of Brazil and of Chile have congratulated us on the conclusion of this protocol, and that these two events, of the greatest interest to the Republic, have been received with high satisfaction over the entire country.

The Spanish training ship *Nautilus* visited us in June last; the *Amethyst*, of the British squadron, came in August last, and *L'Avenir*, belonging to His Majesty the King of Belgium, in September last. We have expressed our gratification over these courteous visits, and have rendered homage to the distinguished commanders and officers of these vessels during their stay in our waters.

An especially pleasing event, particularly so on account of the condition of affairs at the time, was the mission confided by the Government of the Argentine Republic to the battleship *Almirante Brown*, which came to Montevideo for the purpose of taking part in the festivities of August 25, our independence day. Argentine's participation in this patriotic anniversary brought about an excellent impression—an impression thoroughly demonstrated by our reception of the visitors—thus still further cementing the ties of traditional friendship between the two countries.

In December a French fleet, under the command of Rear Admiral Aubert, visited us on the highly flattering mission of saluting Uruguay and her Government. The officers and crew of the powerful warships were received by us with the greatest possible cordiality, French and orientals mixing in the greatest harmony. Our people, properly gauging the importance of this visit on international relations, enthusiastically joined in the reception and entertainment of the distinguished guests.

The Republic of Cuba has given proof of its intention to draw tighter the bonds of friendship between us by accrediting here a permanent diplomatic mission, which has been received by my Government with high pleasure.

The Argentine Republic proposes to celebrate this year, in May, its hundredth anniversary by means of congresses, conferences, and expositions, in which we will be represented by official delegates, having accepted, with the best wishes, the invitations sent, and joining with great pleasure in this glorious anniversary of a friendly country.

This date coincides with the Fourth Pan American Congress, which is to be held in Buenos Aires also, and to which delegates will be sent to take part in its deliberations.

On May 14, 1909, the ratifications of the naturalization treaty celebrated between the Republic and the United States of America were exchanged in the ministry of foreign affairs; and on November 15 last the treaty on the extradition of criminals, celebrated between the Republic and Chile, was also ratified in the same manner. Consequently these two conventions are now a part of our international legislation.

The Government is giving due consideration to various drafts of international treaties on arbitration, extradition of criminals, and commerce.

For the purpose of drawing up such conventions, on bases of reciprocal advantage to the contracting parties, I have, with the consent of the permanent commission, confided to the minister for foreign affairs, Antonio Bachini, a special mission in Europe.

MESSAGE OF THE PRESIDENT OF PARAGUAY TO THE PARAGUAYAN CONGRESS.

Minister Morgan to the Secretary of State.

No. 1.]

AMERICAN LEGATION,
Montevideo, April 29, 1910.

SIR: I have the honor to transmit the message which the President of Paraguay recently sent to Congress, and which was printed in *El Diario*, of Asuncion, on April 1. A translation in summary form of the message is also inclosed.

I have, etc.,

EDWIN V. MORGAN.

[Inclosure—Translation.]

Message of the President of Paraguay.

EXTRACT.

International conventions have been drawn with the following countries:

A naturalization treaty with the United States.

A convention with Argentina for the simplification of the legalization of rogatory letters.

An arbitration treaty with the United States.

Within a short time the ratifications of an extradition treaty with Austria-Hungary will be exchanged.

Extradition treaties with Italy, England, and the United States are now before your honorable body, and I recommend that they receive your prompt action.

The Executive believes it advantageous to approve the conventions signed at the International American Congress and The Hague Peace Conference, and for this purpose it will in a short time send you a message, accompanied by the corresponding documents.

The necessity of exercising proper vigilance over the jurisdictional waters of our rivers, which in great part are exercised in common with neighboring States, gave rise during the recent revolution to unforeseen incidents, which showed the necessity of beginning negotiations for a convention which shall establish the procedure of fluvial police. Meanwhile my Government maintains that, under the present circumstances, in default of an express convention, Paraguay has the right to claim the same practices and exercise the same powers as are recognized reciprocally by other countries in their treaties, laws, or decrees regarding the navigation of common rivers.

VENEZUELA.

CELEBRATION OF THE FIRST CENTENARY OF THE INDEPENDENCE OF VENEZUELA.

File No. 23905-1.

Chargé Whitehouse to the Secretary of State.

No. 530.]

AMERICAN LEGATION,
Caracas, March 31, 1910.

SIR: I have the honor to inclose you herewith copies and translations of the program of the ceremonies in connection with the celebration of the centennial of the independence of Venezuela.

I am, etc.,

SHELDON WHITEHOUSE.

[Inclosure.—Translation.]

Gen. Juan Vicente Gomez, Provisional President of the United States of Venezuela. In fulfillment of the provisions of the executive decree of April 19, 1909, the project submitted to the Government of the Republic by the centennial board being approved; and whereas the 19th of April, 1910, completes the first centennial of the events which history considers as initial to the independence of South America, I decree:

ARTICLE 1. The ceremonies commemorative of the centennial of the independence of Venezuela will begin on April 19, 1910.

ART. 2. The national pantheon will be reconstructed in a form worthy of its high purpose.

ART. 3. There are created—(1) the Military Academy of the Republic; (2) the National Nautical School; (3) a normal school; (4) a botanical garden.

ART. 4. There will be constructed—

1. A steel dry dock in Puerto Cabello to meet the necessities of the national fleet and the national and foreign merchant marine.

2. A building for the national library.

3. A fireproof building for the principal office of public registry and national archives.

4. A building for surgical operations in the near vicinity of the Hospital Vargas and independent of its main building.

5. A national post-office and telegraph building.

ART. 5. In conformity with the legislative resolution of August 4, 1909, the census of the nation is to be taken.

ART. 6. The house where Simon Bolivar was born, in the city of Caracas, having been acquired for the nation by popular subscription, shall be reconstructed with all fidelity possible to the form it had in 1783. There shall be established in the old mansion the Bolivar museum, and its walls shall be dedicated to narrating in fresco painting or on canvas the life of the father of the country.

The positions of director of the national pantheon and of the Simon Bolivar house will be long-term appointments, and for their discharge there will be named preferably the descendants of distinguished liberators or veterans of the army of the Republic worthy of the honorable charge.

ART. 7. There shall be erected in the gardens of the independence driveway of the capital of the Republic the busts of Jose Maria Espana, Francisco Salias, Gen. Jose Felix Ribas, Manuel Gual, and Jose Cortes de Madariaga.

ART. 8. Commemorative inscriptions shall be fixed in the places and edifices celebrated in the annals of the 19th of April, 1810, 5th of July, 1811, and of the patriotic society of that epoch.

ART. 9. The following congresses will solemnize the commemoration of the centennial:

1. A municipal congress, composed of one delegate for each illustrious council of the Republic.

2. The first Venezuelan congress of medicine.

ART. 10. The Governments of the Latin-American Republics shall be invited to a conference to be held at Caracas, to celebrate an international telegraphic convention, by which the telegraphic communication between said Republics is to be established and regulated.

ART. 11. The Governments of the Republics of Colombia, Ecuador, Peru, and Bolivia shall be invited to concur at the formation of the first Bolivar congress, which shall be held at Caracas on the first five days of July, 1911, to treat of matters of common interest of all kinds.

ART. 12. The following contests are established:

1. Of rural industry, for the products of agriculture and "cria" of the country, best prepared for home consumption or for exportation, such as honey, wax, cheese, butter, feculæ, and various cottons, oils of all classes, sugar, fiber, etc., as well as the utensils and machines employed in preparing them, always provided that they be invented or improved upon in Venezuela.

2. Of horticulture and floriculture, for the most varied and complete collections of vegetables and flowers cultivated in the federal district, especially when they proceed from the primitive plants of the country that have been improved by cultivation.

3. Of zoology, for notable specimens of stock animals raised or capable of being raised in the country, and of animals whose feathers or skin may be industrially useful.

4. Of fine arts, in conformity with the determination of the academy of that branch.

ART. 13. Let two expositions be organized:

1. An exposition of national fine arts, of objects of historical interest and photographs of memorable sites, models, and natural beauties of the country.

2. An international exposition of school furniture and articles useful in teaching, destined to call attention to the models most adequate to the schools and institutions of learning in the Republic.

ART. 14. Let the exploration commission provided for in the executive disposition of March 29, 1909, be organized.

ART. 15. The atheneum of Caracas is established.

ART. 16. Let the grounds of the hippodrome in the Avenue El Paraiso be acquired, which shall be used for the contests of zoology, floriculture, horticulture, and rural industries.

ART. 17. The following works shall be printed or reprinted at the expense of the nation:

(a) The Diary of Bucaramanga.

(b) Supplement of the "Memorias del General O'Leary" (Vol. III), and the correspondence of the liberator (1829-1830).

(c) Defense of the liberator by Don Simon Rodriguez.

(d) History of Venezuela, documents and supplement, by Francisco Javier Yanes.

(e) Contemporaneous History of Venezuela, by Dr. Gonzalez Guinan.

(f) Book of Acts of Congress of 1811.

(g) First edition of Physical and Political Map of Venezuela, scale to the millionth.

(h) Plan of Caracas in 1810.

(i) Patriotic Songs (1810-1850).

(j) Acts and Works of First Venezuelan Medical Congress.

(k) Musical Compositions of Manuel L. Rodriguez.

(l) The Centennial Book, with the story of the commemoration, results of the contests, etc.

ART. 18. On December 17, 1910, anniversary of the death of Simon Bolivar, solemn funeral services shall be celebrated in the Holy Metropolitana Church.

ART. 19. Let the following monuments be erected:

1. A monument dedicated to the glory of Antonio Ricaurte in the same place he heroically died in San Mateo.

2. In commemoration of the meeting that took place in the town of Santa Ana for the adjustment of the war between Gens. Bolivar and Morillo, and of the prayer of the latter that a monument would be raised on the spot where both chiefs embraced; let a prismatic column be raised in Santa Ana on which shall be placed with appropriate inscriptions the stone set up by the republican and royalist officials to mark the memorable site.

ART. 20. There is created a medal commemorative of the first centennial of the Republic of Venezuela.

ART. 21. The Republics of Colombia, Ecuador, Peru, and Bolivia, our sisters in the glory of the liberating epic poem, will be especially invited.

ART. 22. For the purpose of constantly showing that the emancipating revolution neither did nor could sever the bonds that unite Venezuela to the mother country, let there be communicated to the Government of the Spanish nation the pleasure

with which Venezuela would see her represented in the ceremonies to which the present decree refers.

ART. 23. In recognition of the services lent to the cause of the independence by Great Britain and Haiti, let the Governments of these two friendly nations be also specially invited to assist in the commemoration of the centennial.

ART. 24. The order of the ceremonies will be, with special programs, as follows:

April 19, 1910.—Opening of the contests indicated in article 25; installation of the central board of the national census; initial ceremony of the reconstruction of the national pantheon; initiation of the work of the building for the national library; laying of the corner stone of the building for surgical operations.

June 24, 1910.—Opening of the work for the building for the office of registry and national archives; initial ceremony of the work of the mail and telegraph building.

July 5, 1910.—Opening of the Military Academy and Nautical School; inauguration in La Guaira of the wireless telegraph; promulgation of the verdicts settled upon in the contests to which article 25 refers.

July 24, 1910.—Solemn delivery to the nation of the house where the liberator was born.

October 28, 1910.—Opening of the contest of rural industries; installation of the atheneum.

December 9, 1910.—Inaugural session of the telegraphic conference of the Latin-American Republics.

December 17, 1910.—Solemn funeral honors to the liberator in the Holy Metropolitana Church.

December 19, 1910.—Inauguration of the Avenue "19 of December"; opening of the school-furniture exposition.

January 1, 1911.—Inauguration of the national library building; inauguration of the surgical operation building; installation of the normal school.

April 19, 1911.—Installation of the capital of the congress of municipalities; inauguration of the national pantheon; opening of the contest of floriculture and horticulture; inauguration of the building for the office of the principal registry and national archives; inauguration of the post and telegraph building; opening of the fine arts exposition.

June 24, 1911.—Installation of the first Venezuelan Medical Congress; opening of the zoological contest; inauguration of the "Carabobo" monument in the independence driveway; opening of the fine-arts contest.

July 1, 1911.—Installation of the first Bolivar Congress.

July 5, 1911.—Placing of the book of the acts of the congress of 1811 in the coffer destined for this purpose and the solemn handing over of the key of said coffer to the President of the United States of Venezuela; closing of the first Bolivar Congress; dedication of the house where the liberator was born; inauguration of the steel dock in Puerto Cabello; inauguration of the busts and monuments.

July 24, 1911.—Inauguration of the Bolivar Museum.

ART. 25. The competitive contests for the projects and sketches of the works prescribed in articles 2, 4, 8, 19, and 20 of this decree, and for the coffer and key required by the decree of January 1, 1910, shall be opened by special resolutions on the 19th of April, 1910.

ART. 26. The minister of finance and public credit will solicit the additional credit required for the execution of the present decree and of the entertainments and solemnities consequent thereto.

ART. 27. All former dispositions contrary to this decree are revoked.

ART. 28. The attendant resolutions to this decree will be issued by the respective federal departments.

Given, signed, sealed with the seal of the Federal Executive, and countersigned in the Federal Palace in Caracas, March 19, 1910, the one hundred and fifty-second.

[Here follow signatures of President and cabinet ministers.]

File No. 23905/3A.

President Taft to the President of Venezuela.

[Telegram.]

THE WHITE HOUSE,
Washington, April 19, 1910.

On this centennial anniversary of the independence of the Republic of Venezuela I have the honor to convey to your excellency and to

the Government and people of Venezuela the congratulations and good wishes of the Government and people of the United States of America and my own personal best wishes for the continued success of your administration.

WM. H. TAFT.

File No. 831.415A/5.

Chargé Whitehouse to Secretary of State.

No. 620.]

AMERICAN LEGATION,
Caracas, October 25, 1910.

SIR: I have the honor to inform you that, by decree of October 6, the minister of foreign affairs is instructed to invite the following nations to take part in the festivities of the Venezuelan centennial, which occurs next July, for the following reasons:

Spain, the mother country, as a sign of filial affection.

Colombia, Ecuador, Peru, and Bolivia, the sister Republics freed by Bolivar.

Great Britain, for the help that her sons lent to the cause of Venezuelan emancipation.

The Republic of Haiti, for the support that its Government lent to the struggle for independence.

The United States of America, in commemoration of their having been the first nation that recognized the independence of Venezuela.

The Argentine Republic, and the United States of Brazil, as a mark of gratitude for their friendly behavior in moments difficult for Venezuela.

Mexico, in return for the invitation that its Government extended to Venezuela to celebrate the Mexican centennial.

This decree amplifies the original program, forwarded in my No. 530 of March 31, by adding the United States, Argentine, Brazil, and Mexico to the list of specially invited nations.

I have, etc.,

SHELDON WHITEHOUSE.

File No. 831.415A/6.

The Venezuelan Minister for Foreign Affairs to the Secretary of State.

[Translation.]

No. 1940.]

MINISTRY OF FOREIGN RELATIONS,
Caracas, November 3, 1910.

MOST EXCELLENT SIR: Venezuela is celebrating the first centennial of its independence and would be most highly gratified if the most excellent President and Government of the United States, whom I have the honor to invite by order of the Constitutional President and through your excellency's worthy medium, would be represented at the festivities, which, on that imperishable and transcendent occasion, will take place during the first week of the grand month of July next, in which comes the fifth, the glorious date of that proclamation, and so join in the patriotic rejoicings of Venezuela, which ever remembers that the first nation to recognize its independence was the United States of America.

Owing to the existing good and cordial relations and the desire that these relations shall grow day by day more intimate, the Government and people of Venezuela entertain the belief that the United States will favorably receive this invitation.

I avail, etc.,

M. A. MATOS.

[To be continued in Foreign Relations, 1911.]

MESSAGE OF THE PRESIDENT OF VENEZUELA TO THE VENEZUELAN CONGRESS.

File No. 3136/296.

Chargé Whitehouse to Secretary of State.

No. 544.]

AMERICAN LEGATION,
Caracas, April 28, 1910.

SIR: I have the honor to transmit under separate cover duplicate copies of the message of President Gomez delivered to Congress on April 19, and to inclose herewith a translation of the portion dedicated to the United States.

I have, etc.,

SHELDON WHITEHOUSE.

[Inclosure—Translation.]

Message of the President of Venezuela.

EXTRACTS.

The diplomatic relations between the United States and Venezuela, based upon the greatest harmony, continue to draw closer the multiple ties which unite the two nations.

As a result of negotiations between the President of the United States and the minister for foreign affairs of Venezuela, the benefit of the minimum American tariff has been granted to the products of Venezuela imported into the United States, and I am pleased to announce to you an arrangement so favorable to Venezuelan agriculture and industry.

The Republic was officially represented at the celebrations which took place last year in New York, and it will likewise assist at various international meetings which will shortly be held in the United States and to which it has been courteously invited.

There will be inaugurated in Washington in a few days the building destined to be the office of the American Republics, to whose construction the Republic has appropriately contributed, and in which will be displayed the Venezuelan flag and a marble bust of the Liberator.

In accordance with the stipulations of article 12 of the protocol of agreement between Venezuela and the United States of America, concluded February 13, 1909,¹ and approved by Congress in its sessions of last year, the minister for foreign affairs signed with the United States minister the respective protocols for the settlement of the claims of the United States & Venezuela Co. and of the Orinoco Corporation against the Republic. The minister for foreign affairs will give you a detailed account of the said agreement, which I consider beneficial to the Republic.

Thanks to this agreement, the arbitral tribunal of the Permanent Court at The Hague organized by the protocol of February 13 will have only the case of the Orinoco Steamship Co. to try.

The arbitrators appointed in conformity with the agreement met in the second fortnight of February at The Hague and elected as third arbitrator the Austrian jurist, Mr. Henry Lammasch. The cases of the litigants were cited for presentation on February 1, and the counter cases will be presented June 1 next. The arbitral tribunal will convene on the 20th of the coming September.

¹ See Foreign Relations, 1909, p. 617.

INTERNATIONAL CONFERENCES AND CONVENTIONS.

CONVENTIONS OF THE SECOND INTERNATIONAL PEACE CONFERENCE HELD AT THE HAGUE IN 1907, PROCLAIMED FEBRUARY 28, 1910.

See House Document No. 1151, Sixty-third Congress, second session. See also Foreign Relations, 1905, page 828; 1906, page 1625; and 1907, page 1099.

FOURTH INTERNATIONAL CONFERENCE OF AMERICAN STATES.

See under Argentine Republic, page 12.

THIRD INTERNATIONAL CONFERENCE ON MARITIME LAW, 1910 SESSION.

See under Belgium, page 105.

JOINT INTERNATIONAL COMMISSION FOR THE INVESTIGATION OF THE OPIUM QUESTION IN THE FAR EAST.

See under China, page 292.

THE INTERNATIONAL PRIZE COURT AND THE PROPOSED COURT OF ARBITRAL JUSTICE.

See under Great Britian, page 597.

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